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Filing date: **07/14/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222131
Party	Plaintiff Global Nutrition Group, Inc.
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Submission	Motion to Consolidate
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Date	07/14/2015
Attachments	2015-07-14 Opposer_s Motion to Consolidate Opposition Proceedings - VS-PORT.059M.PDF(107124 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Global Nutrition Group, Inc.,)	
)	Opposition Nos.: 91220035
Opposer,)	91222131
)	Serial No.: 86/200113
v.)	Mark: XR2
)	
Xyngular Corporation,)	Serial No. 86/460708
)	XR2
Applicant.)	Mark:
)	

OPPOSER’S MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS

Pursuant to Federal Rule of Civil Procedure 42(a) and T.B.M.P. § 511, Global Nutrition Group, Inc. (“Opposer”) hereby moves to consolidate Opposition No. 91220035 with Opposition No. 91222131 (the “Oppositions”) and reset the remaining trial dates in Opposition No. 91220035 to the dates presently set for Opposition No. 91222131. The Oppositions before the Board involve common questions of law and fact and the same parties.

T.B.M.P. § 511 permits a party to petition the Board to have proceedings consolidated where the cases involve common questions of law or fact. When determining whether to consolidate proceedings, the Board weighs the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice or inconvenience that may be caused thereby. *Id.* The Board also considers the identity of the parties. *Id.*

The current Oppositions involve common questions of law and fact, and the same parties. For example, Opposer asserts identical common law rights and registrations for marks that include XR2, among others, in the Oppositions. In addition, each of the opposed applications were filed by the same Applicant, Xyngular Corporation, and the opposed applications are for identical goods, namely, "Dietary supplements; Nutritional supplements" in Class 5. Moreover, Applicant's Answers in the Oppositions raise the same issues and defenses. Finally, Global Nutrition Group, Inc. and Xyngular Corporation are the only parties involved in the Oppositions.

Consolidation will save the Board and the parties the time, effort, and expense that would be required in maintaining the Oppositions on separate schedules. This motion is sought for purposes of judicial economy and not for reasons of delay. To avoid duplicative litigation and promote judicial economy, while preserving the interest of the parties in the Oppositions, the above Oppositions should be consolidated into one proceeding.

For the reasons set forth above, Opposer requests consolidation of Opposition No. 91220035 with Opposition No. 91222131 while retaining the separate character of the Oppositions and requiring separate judgments for each of the Oppositions pursuant to Fed. R. Civ. P. 42(a) and T.B.M.P. § 511.

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Opposer further requests that the Board reset the remaining trial dates to the dates presently set for Opposition No. 91220035 such that Opposition No. 91220035 and Opposition No. 91222131 proceed on the same schedule.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 14, 2015

By: 

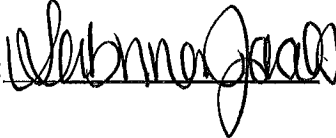
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing OPPOSER'S MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS has been served on applicant's counsel by mailing one copy on July 14, 2015 via First Class mail, postage prepaid to:

BRETT D EKINS
JONES WALDO HOLBROOK & McDONOUGH
301 N 200 E , STE 3A
ST GEORGE, UT 84770-3041

Date: July 14, 2015

Signature: 

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