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

Proceeding	91223820
Party	Defendant Mannatech, Incorporated
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Attachments	Joint Motion to Consolidate Proceedings.pdf(43447 bytes)

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

SHAKLEE CORPORATION	:	Opposition No. 91221493
	:	
	:	Serial No.: 86/128,507
Opposer,	:	
	:	Mark: UTH
v.	:	
	:	CounterClaim
MANNATECH, INCORPORATED	:	
	:	Registration No.: 3,347,631
Applicant.	:	
	:	Mark: YOUTH

SHAKLEE CORPORATION	:	Opposition No. 91223820
	:	
	:	Serial No.: 86/128,470
Opposer,	:	
	:	Mark: UTH & Design 
v.	:	
	:	CounterClaim
MANNATECH, INCORPORATED	:	
	:	Registration Nos.: 3,347,631
	:	4,777,591
Applicant.	:	
	:	Marks: YOUTH
	:	YOUTH

SHAKLEE CORPORATION	:	Opposition No. 91223821
	:	
	:	Serial No.: 86/128,560
Opposer,	:	
	:	Mark: ŪTH
v.	:	
	:	CounterClaim
MANNATECH, INCORPORATED	:	
	:	Registration Nos.: 3,347,631
	:	4,777,591
Applicant.	:	
	:	Marks: YOUTH
	:	YOUTH

JOINT MOTION TO CONSOLIDATE PROCEEDINGS

On April 14, 2015, Shaklee Corporation (“Opposer”) filed a Notice of Opposition to the application of Mannatech, Incorporated (“Applicant”) to register the mark UTH (Serial No. 86/128,507). Opposer alleged that the UTH mark is confusingly similar to Opposer’s registration for YOUTH (Registration No. 3,347,631). The proceedings were instituted on April 14, 2015, and assigned Opposition No. 91221493. Applicant filed an Answer to the Notice of Opposition and Counterclaim for Cancellation based on abandonment of the YOUTH Registration on May 19, 2015. A Motion to Dismiss the Counterclaim was filed on July 2, 2015 and was granted on October 26, 2015. An amended Answer and Counterclaim were filed on November 18, 2015.

On September 15, 2015, Shaklee Corporation (“Opposer”) filed a Notice of Opposition to the application of Mannatech, Incorporated (“Applicant”) to register the mark UTH & Design (Serial No. 86/128,470). Opposer alleged that the UTH & Design mark is confusingly similar to Opposer’s registrations for YOUTH (Registration No. 3,347,631) and YOUTH (Registration No. 4,777,591). The proceedings were instituted on September 15, 2015, and assigned Opposition No. 91223820. Applicant filed an Answer to the Notice of Opposition and Counterclaim for Cancellation based on alleged abandonment of the YOUTH Registrations on November 20, 2015.

On September 15, 2015, Shaklee Corporation (“Opposer”) filed a Notice of Opposition to the application of Mannatech, Incorporated (“Applicant”) to register the mark ŪTH (Serial No. 86/128,560). Opposer alleged that the UTH mark is confusingly similar to Opposer’s registrations for YOUTH (Registration No. 3,347,631) and YOUTH (Registration No. 4,777,591). The proceedings were instituted on September 15, 2015, and assigned Opposition

No. 91223821. Applicant filed an Answer to the Notice of Opposition and Counterclaim for Cancellation based on alleged abandonment of the YOUTH Registrations on November 20, 2015.

On September 29, 2015, Opposer's counsel, Kevin M. Hayes, filed a Notification of Cases that May be Considered Related in order to alert the Board of the above-listed proceedings. Additionally, Opposer's counsel referenced the 91221493 Opposition as a Related Proceeding in the filings of Opposition Nos. 91223820 and 91223821.

Pursuant to the Trademark Rules of Practice and the Trademark Trial and Appeal Board Manual of Procedure, a party which has filed several opposition and/or cancellation proceedings against applications and registrations owned by the same party may, when appropriate, petition the Board to have these proceedings consolidated. TBMP § 511. Consolidation of oppositions and cancellations is appropriate when each proceeding involves common questions of law or fact. *See* Fed. R. Civ. P. 42(a); *M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008) (proceeding involved identical parties, identical registrations and related issues); *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293, 1297 (TTAB 1997) (both proceedings involved the same mark and virtually identical pleadings); *Ritchie v. Simpson*, 41 USPQ2d 1859 (TTAB 1996), *rev'd on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); *Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993) (opposition and cancellation consolidated). In this case, since the parties are identical and since the applications and registrations at issue all contain the same common elements (UTH and YOUTH), consolidation is appropriate.

Both parties believe that consolidation will promote judicial economy without causing any undue prejudice or inconvenience.

As the consolidation of these proceedings will save time, effort, and expense, Opposer and Applicant respectfully requests that this joint motion be granted.

Dated: January 4, 2016

Respectfully submitted,

/Sanford E. Warren, Jr./

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 4th day of January, 2016 service of **JOINT MOTION TO CONSOLIDATE PROCEEDINGS** was made to the following attorney for Opposer *via* email (per agreement of both parties):

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By: /Sanford E. Warren, Jr./
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