

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

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Mailed: May 3, 2016

Opposition No. 91224342 (Parent)

Opposition No.91224344

Opposition No.91224345

Opposition No. 91224346

Opposition No. 91224924

Opposition No. 91224929

Opposition No. 91224930

R. Stone Co., LLC

v.

La Pietra Thinstone Veneer of Monroe, Inc.

Benjamin U. Okeke, Interlocutory Attorney:

Motion to Consolidate

On February 16, 2016, Opposer filed the parties' stipulated motion to consolidate all the above listed Opposition proceedings; and to stipulate as to the limits of the number of interrogatories to be propounded in this proceeding, stating that the number that would normally apply to a single proceeding on a single mark should be applied in this case, but that where an interrogatory is posed in separate parts asking the same question as to various of the marks in dispute, those parts shall count as one interrogatory, not as separate interrogatories.¹

¹ The parties also reserved the right to seek court permission to serve additional interrogatories as they would otherwise be permitted to seek under the discovery rules.

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The Board notes initially that Applicant has filed its answer in each proceeding for which consolidation is sought.

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby.

Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, e.g., Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993).

It is noted that the parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is **GRANTED**. Opposition numbers 91224342, 91224344, 91224345, 91224346, 91224924, 91224929 and 91224930 are hereby consolidated and may be presented on the same record and briefs. *See Hilson Research Inc. v. Society for Human Resource Management, supra*; and *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in **Opposition No. 91224344** as the “**parent case.**” From this point on, **only a single copy of all motions and papers should**

be filed, and each such motion or paper should be filed in the parent case only, but caption all consolidated proceeding numbers, listing the “parent case” first.²

Despite being consolidated, each proceeding retains its separate character and requires entry of a separate judgment. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings; a copy of the decision shall be placed in each proceeding file.

Upon consolidation, the Board will reset dates for the consolidated proceeding, usually by adopting the dates as set in the most recently instituted of the cases being consolidated. The schedule for the consolidated proceeding is set out below.

Schedule

The remaining disclosure, discovery, and trial dates are reset in accordance with the parties’ stipulation, as reflected below for reference:

Expert Disclosures Due	6/26/2016
Discovery Closes	7/26/2016
Plaintiff’s Pretrial Disclosures	9/9/2016
Plaintiff’s 30-day Trial Period Ends	10/24/2016
Defendant’s Pretrial Disclosures	11/8/2016
Defendant’s 30-day Trial Period Ends	12/23/2016
Plaintiff’s Rebuttal Disclosures	1/7/2017
Plaintiff’s 15-day Rebuttal Period Ends	2/6/2017

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

² The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

Opposition No. 91224342, 91224344, 91224345, 91224346, 91224924, 91224929, 91224929
and 91224930

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.