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

Proceeding no.	91234074
Party	Plaintiff Southwestern Management, Inc.
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Submission	Motion to Consolidate
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Date	02/06/2023
Attachments	2023-02-06-Request-to-Consolidate.pdf(140248 bytes)

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

In the Matter of Application Serial No. 76/577,252
Published in the Official Gazette of January 3, 2017

In the Matter of Application Serial No. 76/577,253
Published in the Official Gazette of December 27, 2016

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SOUTHWESTERN MANAGEMENT, INC.

Opposer,

-vs-

Opposition No. 91234074
Opposition No. 91234075

OCINOMLED, LTD

Applicant.

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**OPPOSER’S MOTION TO CONSOLIDATE
RELATED OPPOSITION PROCEEDINGS**

Opposer, Southwestern Management, Inc. (hereinafter “Opposer”), hereby moves to consolidate two related opposition proceedings involving the same parties and the same marks, and that are at the same early stage of proceeding: Oppositions Nos. 91234074 (hereinafter “the ‘074 Opposition) and 91234075 (hereinafter “the

'075 Opposition) (hereinafter the '074 Opposition and the '075 Opposition being jointly referred to as "Oppositions") . This Motion is brought pursuant to Fed. R. Civ. P. 42(a) and TBMP 511.

The application that is the subject of the '074 Opposition is for the mark "DELMONICO'S" for the goods "steak sauce". The application that is the subject of the '075 Opposition is for the mark "DELMONICO'S" for "restaurant services". The Oppositions both involve Opposer's primary claim that it has continuously used since long prior to the filing date of the applications-at-issue the trademarks "DELMONICO'S" and "DELMONICO'S ITALIAN STEAKHOUSE" for restaurant and bar services and the trademarks "DELMONICO'S" and "DELMONICO'S STEAK SEASONING" for a spice seasoning powder for flavoring meats. Other bases of both Oppositions are also substantially identical.

The Oppositions are both at the same, very early stage of proceeding, with Applicant having filed its respective Answers only a few days ago, on February 3, 2023.

Under Fed. R. Civ. P. 42(a), this tribunal may consolidate the Oppositions when the Oppositions involve a common question of law or fact. It is indisputable that the Oppositions involve an extensive overlap of issues of law and fact. In determining whether to consolidate, the Board "will weigh the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice

or inconvenience that may be caused thereby.” TBMP 511 Opposer believes it is self-evident that the parties and the Board would gain an immense savings in time, effort, and expense by the requested consolidation and that there would be no prejudice or inconvenience caused by the requested consolidation.

Opposer has asked Applicant’s counsel of record whether Applicant would consent to, stipulate to, etc. the instant motion, but has received no response.

Wherefore, Opposer prays for an order consolidating the Oppositions.

Dated: February 6, 2023

Respectfully submitted,
The Law Office of Robert E. Purcell, PLLC



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ATTORNEY FOR OPPOSER

CERTIFICATE OF SERVICE

I certify that on the 6 day of February, 2023 a copy of the foregoing OPPOSER'S MOTION TO CONSOLIDATE RELATED OPPOSITION PROCEEDINGS was sent via e-mail and First Class U.S. Mail, to the following:

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/s/Allison Haines_____
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