

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
General Email: TTABInfo@uspto.gov

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March 16, 2023

Opposition No. 91234074 (parent case)
Opposition No. 91234075

Southwestern Management, Inc.

v.

Ocinomled, Ltd.

Rebecca Stempien Coyle, Interlocutory Attorney:

On February 6, 2023, Opposer filed a motion to consolidate Opposition Nos. 91234074 and 91234075. The following day Opposer moved to suspend proceedings in each case pending final resolution of Opposition No. 91232430. On March 1, 2023, Applicant filed its consent to Opposer's motion to consolidate and the requested suspension.¹

Consolidation

The Board notes initially that Applicant has filed its answer in each proceeding for which consolidation is sought. Inasmuch as the above-captioned proceedings involve common parties and common questions of law and fact, the Board exercises

¹ Applicant's response was filed more than twenty days after Opposer's motions. Applicant is reminded that, with limited exceptions, responses to motions are due within twenty days from the date of service of the motion. Trademark Rule 2.127(a).

its discretion to consolidate these proceedings to serve the interest of judicial economy and preserve the resources of the Board and parties.

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).

The parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is granted. Opposition Nos. 91234074 and 91234075 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. 91234074** as the "parent case." From this point on, only a single copy of all motions and submissions should be

filed, and each submission should be filed in the parent case only, but caption all consolidated proceeding numbers, listing and identifying 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.

Suspension

The Board may, in its discretion pursuant to Trademark Rule 2.117(a), suspend a proceeding pending the final determination of another Board proceeding. *See also* TBMP § 510.02(a). The Board seldom grants a motion to suspend a particular proceeding pending disposition of other opposition proceedings brought by unrelated plaintiffs against the same application, and asserting unrelated claims, absent the consent of the other parties. *New Orleans Louisiana Saints LLC and NFL Properties LLC v. Who Dat?, Inc.*, 99 USPQ2d 1550, 1551 (TTAB 2011).

In view of Applicant’s consent to the suspension, Opposer’s motion to suspend the now-consolidated proceedings pending a final determination of Opposition No. 91232430 is **granted** and proceedings herein are **suspended**.

Within twenty days after the final determination in Opposition No. 91232430, the parties shall so notify the Board so that this proceeding may be called up for

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.

appropriate action.³ Such notification to the Board should include a copy of any final order or final judgment which issued in the other Board proceeding.

During the suspension period, the parties must notify the Board of any address or email address changes for the parties or their attorneys. In addition, the parties are to promptly inform the Board of any other related cases, even if they become aware of such cases during the suspension period. Upon resumption, if appropriate, the Board may consolidate related Board cases.

³ A proceeding is considered to have been finally determined when an order or ruling that ends litigation has been rendered, and no appeal has been filed, or all appeals filed have been decided and the time for any further review has expired. *See* TBMP § 510.02(b).