

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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August 20, 2019

Opposition No. 91248050
(parent case)
Opposition No. 91249683

Koch Agronomic Services, LLC

v.

Verdesian Life Sciences U.S., LLC

Amy Matelski, Paralegal Specialist:

On August 16, 2019, the parties filed a combined stipulated motion to consolidate Opposition Nos. 91248050 and 91249683 and suspend proceedings pending a civil action between the parties. The Board notes initially that Applicant has not yet 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); and *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991).

The parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is granted. Opposition Nos. 91248050 and 91249683 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. **91248050** 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. However, inasmuch as these proceedings are being consolidated prior to joinder of the issues in each proceeding, Applicant should file a separate answer in each opposition before commencing the practice of filing a single copy of all submissions in the parent case.¹ Each answer must be filed through ESTTA, the Board’s Electronic System for Trademark Trials and Appeals. *See Trademark Rules 2.106(b)(1) and 2.114(b)(1).*

¹ 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.

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.

The parties stipulated motion to suspend this proceeding pending final determination of Civil Action No. 3:19-cv-00722-S Horizon AG-Products, LP v. Verdesian Life Sciences, U.S., LC, filed in the United States District Court for the Northern District of Texas, Dallas Division is granted. See Trademark Rules 2.127(a) and 2.117(a).

Accordingly, proceedings are SUSPENDED pending final disposition of the civil action.

Within twenty days after the final determination of the civil action, the parties shall so notify the Board so that this proceeding may be called up for appropriate action.² Such notification to the Board should include a copy of any final order or final judgment which issued in the civil action.

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

² 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).

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of such cases during the suspension period. Upon resumption, if appropriate, the Board may consolidate related Board cases.