

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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August 18, 2020

Opposition No. 91252820 (parent case)
Opposition No. 91252822
Opposition No. 91252834

*The Professional Golfers' Association of
America*

v.

Samuel Ryder, Ltd.

Karl Kochersperger, Paralegal Specialist:

On July 1, 2020, Opposer¹ filed a motion to consolidate Opposition Nos. 91252820, 91252822 and 91252834. 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

¹ The change of correspondence address (filed July 30, 2020) by Opposer providing its bar information is noted.

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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. 91252820, 91252822 and 91252834 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. **91252820** 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.

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.

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.

Opposer's consented motion, filed August 10, 2020, to suspend this proceeding for six months is granted.³

Because the parties are negotiating for a possible settlement of this case, proceedings are **suspended** up to, and including February 18, 2021, subject to the right of either party to request resumption at any time.⁴ See Trademark Rules 2.117(c) and 2.127(a); and TBMP § 605.02.

If, during the suspension period, either of the parties or their attorneys have a change of address or email address, the Board should be so informed. See Trademark Rule 2.18(b)(1).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, **proceedings shall resume without further notice or order from the Board**, upon the schedule set forth below.

Discovery Closes	3/20/2021
Plaintiff's Pretrial Disclosures Due	5/4/2021
Plaintiff's 30-day Trial Period Ends	6/18/2021
Defendant's Pretrial Disclosures Due	7/3/2021
Defendant's 30-day Trial Period Ends	8/17/2021

³ Opposer's unconsented motion (filed July 24, 2020) to suspend is noted and will receive no further consideration.

⁴ The parties should note that if proceedings are suspended for a lengthy period of time pursuant to the filing of several motions to suspend for settlement, the Board retains discretion to condition the approval of any future consented or stipulated motion to suspend on a party or the parties providing necessary information about the status of settlement talks, discovery activities, or trial activities, as may be appropriate. See Trademark Rule 2.117(c).

Plaintiff's Rebuttal Disclosures Due	9/1/2021
Plaintiff's 15-day Rebuttal Period Ends	10/1/2021
Plaintiff's Opening Brief Due	11/30/2021
Defendant's Brief Due	12/30/2021
Plaintiff's Reply Brief Due	1/14/2022
Request for Oral Hearing (optional) Due	1/24/2022

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).