

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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March 25, 2021

Opposition No. 91263393 (parent case)

Enterprise Holdings, Inc.

v.

Big Truck Rental, LLC

Opposition No. 91263394

Vanguard Trademark Holdings USA LLC

v.

Big Truck Rental, LLC

Jennifer L. Elgin, Interlocutory Attorney:

On February 25, 2021, the Board requested information from Opposer Enterprise Holdings, Inc. (“Enterprise”) in Opposition No. 91263393 as to the potential relationship between Enterprise and Vanguard Trademark Holdings USA LLC (“Vanguard”) (Opposer in Opposition No. 91263394) to determine if consolidation of the proceedings is appropriate. On March 16, 2021, Enterprise and Vanguard filed a

response confirming that they are related companies, and indicating that all parties consent to consolidation of the proceedings.¹

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); *Wis. Cheese Grp., LLC v. Comercializadora de Lácteos y Derivados, S.A. de C.V.*, 118 USPQ2d 1262, 1264 (TTAB 2016); *Venture Out Props. LLC v. Wynn Resorts Holdings, LLC*, 81 USPQ2d 1887, 1889 and n.7 (TTAB 2007). 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., Wis. Cheese Grp.*, 118 USPQ2d at 1264.

In determining whether to consolidate proceedings, the Board weighs the savings in time, effort, and expense which may be gained from consolidation against any prejudice or inconvenience which may be caused thereby. *World Hockey Ass'n v. Tudor Metal Prods. Corp.*, 185 USPQ 246, 248 (TTAB 1975). *See also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 511 (June 2020). A motion for consolidation may be denied if it will cause delay in the processing of one or more of the individual cases. *See, e.g., Lever Bros. Co. v. Shaklee Corp.*, 214 USPQ 654, 655 (TTAB 1982) (consolidation denied where one case was in pleading stage, and testimony periods had expired in the other); *see also* WRIGHT & MILLER, 9A Fed. Prac. & Proc. Civ. § 2383 and cases cited in n.9 (3d ed.).

¹ The Board notes Applicant has filed its answer in each proceeding for which consolidation is sought.

The parties to these proceedings are related, the issues presented are similar or related, and counsel for the parties are identical. Both cases are in their nascent stages. Moreover, the parties consent to consolidation. Accordingly, Opposition Nos. 91263393 and 91263394 are hereby consolidated and may be presented on the same record and briefs. *Hilson Rsch. Inc. v. Soc’y for Hum. Res. Mgmt.*, 27 USPQ2d 1423, 1424 n.1 (TTAB 1993); *Helene Curtis Indus. v. Suave Shoe Corp.*, 13 USPQ2d 1618, 1619 n.1 (TTAB 1989).

The Board file will be maintained in Opposition No. **91263393** 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.

Trial dates are **reset** as set forth below.

Deadline for Discovery Conference in Opp. No. 91263393 ³	4/23/2021
Discovery Opens	4/23/2021
Initial Disclosures Due	5/23/2021
Expert Disclosures Due	9/20/2021
Discovery Closes	10/20/2021
Plaintiff’s Pretrial Disclosures Due	12/4/2021

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.

³ The parties may dispense with the discovery conference in Opposition No. 91263393 if desired, if a conference previously has been conducted in Opposition No. 91263394.

Plaintiff's 30-day Trial Period Ends	1/18/2022
Defendant's Pretrial Disclosures Due	2/2/2022
Defendant's 30-day Trial Period Ends	3/19/2022
Plaintiff's Rebuttal Disclosures Due	4/3/2022
Plaintiff's 15-day Rebuttal Period Ends	5/3/2022
Plaintiff's Opening Brief Due	7/2/2022
Defendant's Brief Due	8/1/2022
Plaintiff's Reply Brief Due	8/16/2022
Request for Oral Hearing (optional) Due	8/26/2022

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).