

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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August 31, 2022

Opposition No. 91266285 (parent case)
Opposition No. 91266754

ZeroDensity Yazilim Anonim Sirketi

v.

Apple Inc.

J. Krisp, Interlocutory Attorney:

The Board notes that on August 29, 2022, Opposer filed, in each of the captioned opposition proceedings, a motion to consolidate the proceedings. Opposer maintains, inter alia, that consolidation will avoid unnecessary inconvenience associated with reviewing two independent yet essentially duplicative trial briefings. 20 TTABVUE 3.

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. Soc'y. for Human Resource Mgmt.*, 27 USPQ2d 1423 (TTAB 1993).

Here, the two proceedings involve the same parties, and the same or similar issues and questions of law or fact. *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

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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.

Upon review, the Board finds that consolidation is appropriate. Accordingly, Opposer's motion to consolidate is granted. Opposition Nos. 91266285 and 91266754 are hereby **consolidated and may be presented on the same record and briefs**. See *Hilson Research Inc. v. Soc'y. for Human Resource Mgmt.*, *supra*; and *Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Opposition No. 91266285 and is designated as the "parent case." From this point forward, only a single copy of all motions, briefs and other submissions should be filed, each should be filed in the parent case only, and each should caption all consolidated proceeding numbers, listing and identifying the "parent case" first as in the caption above.¹

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.

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. In its motion, Opposer states that maintaining the current schedule as

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.

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set forth in Opposition No. 91266754 is judicially efficient and presents no inconveniences. The Board finds that adopting the schedule in Opposition No. 91266754 is appropriate in view of the circumstances.

Accordingly, remaining briefing dates for the consolidated proceedings are set forth as follows:

Plaintiff's Opening Brief Due	09/16/2022
Defendant's Brief Due	10/16/2022
Plaintiff's Reply Brief Due	10/31/2022
Request for Oral Hearing (optional) Due	11/10/2022

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).