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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047568
Party	Plaintiff A-Live Foods, Inc.
Correspondence Address	Perry S. Clegg Bateman IP Law Group 8 East Broadway, Suite 550 Salt Lake City, UT 84111 UNITED STATES mail@batemanip.com
Submission	Motion to Consolidate
Filer's Name	Perry S. Clegg
Filer's e-mail	mail@batemanip.com
Signature	/Perry S. Clegg/
Date	11/21/2007
Attachments	3594op-11-21-07 Consented Motion to Consolidate Proceedings.pdf (3 pages) (98981 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Trademark Registration No. 2574627
For the mark ALIVE!
Published in the Official Gazette on November 6, 2001

A-Live Foods, Inc.,)	Cancellation No. 92047568
)	Registration No. 2574627
)	Mark: ALIVE!
Petitioner,)	Filing Date: June 14, 2001
)	Registration Date: May 28, 2002
vs.)	
)	
Nature's Way Products, Inc.)	
)	
Respondent.)	
_____)	

CONSENTED MOTION TO CONSOLIDATE PROCEEDINGS

Pursuant to Rule 42(a), Fed. R. Civ. P. and TBMP §§ 501 and 511, and based on stipulation of the parties, Petitioner A-Live Foods, Inc. ("A-Live Foods") and/or Premier Alive, Inc. as a substituted party ("Premier Alive") moves that the above-captioned proceeding and Opposition Number 91179079 be consolidated and that all discovery and trial dates be reset as set forth herein.

Grounds for the consented motion to consolidate are as follows:

1. By letter dated November 19, 2007, Nature's Way Products, Inc. requested that A-Live Foods and/or Premier Alive stipulate to consolidation of Cancellation No. 92047568 and Opposition No. 91179079. On November 20, 2007, the parties agreed to consolidate the cases and reset the trial dates during a phone call regarding the same.

2. The trademarks and trade name(s) involved in both proceedings are the same. In addition, the business, goods, and services offered by the parties in connection with the trademarks and trade name(s) at issue in both proceedings are the same and/or related.

2. The allegations and defenses in Cancellation No. 92047568 and Opposition Number 91179079 requires resolution of issues involving common questions of law and fact.

3. The parties in the Cancellation No. 92047568 and in Opposition No. 91179079 will be the same as a result of the assignment from A-Live Foods of its trademarks, trade name(s), and associated goodwill to Premier Alive and as a likely result of Premier Alive's pending Motion to Substitute.

4. Consolidation will save the Board and the parties time, effort and expense that would otherwise require two separate proceedings. This motion is sought for judicial economy and not for reasons of delay.

5. As a result of consolidation, subsequent papers filed in the two proceedings should be filed under Cancellation No. 92047568 as the "parent" case (i.e., first-filed). *See* TBMP §511.

For the foregoing reasons, it is respectfully requested that Cancellation No. 92047568 and Opposition No. 91179079 be consolidated and that Cancellation No. 92047568 remain as the "parent" case. Furthermore, due to the proceeding schedule differences between Cancellation No. 92047568 and in Opposition No. 91179079, it is respectfully requested that all discovery and trial dates be reset based on the later dates of Opposition No. 91179079.

DATED this 21st day of November, 2007.



Perry S. Clegg

BATEMAN IP LAW GROUP
8 East Broadway, Suite 550
P.O. Box 1319
Salt Lake City, Utah 84110
Telephone: (801) 533-0320
Fax: (801) 533-0323

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing
CONSENTED MOTION TO CONSOLIDATE and this CERTIFICATE OF SERVICE were
served on Respondent by mailing a true copy thereof to its attorney of record, by First Class
Mail, postage prepaid this 21st day of November, 2007, in an envelope addressed as follows:

Robyn L. Phillips
Matthew A. Barlow
WORKMAN | NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111



Perry S. Clegg