

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Baxley

Mailed: October 1, 2014

Cancellation No. 92056635

Cancellation No. 92059134

Richemont International S.A.

v.

FIN.ING. S.r.l.

(as consolidated)

Andrew P. Baxley, Interlocutory Attorney:

On September 23, 2014, Respondent filed an unconsented motion to extend by thirty days its time to respond to the discovery requests that Petitioner served on August 20, 2014 in Cancellation No. 92059134.¹ Because the extension sought could have expired prior to the completion of briefing of the motion to extend, the Board determined that such motion should be decided by telephone conference. *See* Trademark Rule 2.120(i)(1); TBMP Section 502.06(i)(1) (2014). On September 26, 2014, such telephone conference was conducted between Petitioner's attorney Paul J. Reilly, Respondent's attorney John Zaccaria, and Board interlocutory attorney Andrew P. Baxley.

¹ Such discovery requests were served by overnight courier on August 20, 2014. Accordingly, responses to those requests were due by September 24, 2014. *See* Trademark Rules 2.119(c) and 2.120(a)(3).

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In its motion to extend, Respondent contends that is an Italian limited liability company whose United States attorney communicates indirectly with Respondent through a foreign associate attorney and that Petitioner's discovery requests, which involve six registrations and more than 100 goods, were served in the middle of August, during a month in which Respondent's offices were closed, with more than four months remaining in discovery.

In response, Petitioner contends that the discovery requests at issue are not significantly different from discovery requests that they have served upon Respondent in other proceedings, and that Respondent has declined to allow Petitioner extensions of time to serve discovery responses in other litigation between the parties.

The Board expects parties to cooperate in discovery and looks with disfavor upon those who do not. *See* TBMP § 408.01. Indeed, parties usually extend to one another the courtesy of extensions of time to serve discovery responses without the need for Board involvement. Further, granting the extension sought will hopefully lead to more thoroughly prepared discovery responses, which, in turn, will minimize the need for motion practice in connection with those responses.

Based on the foregoing, the Board finds that Respondent has made the required showing of good cause for the extension sought. *See* Fed. R. Civ. P. 6(b)(1)(A); TBMP §§ 409.01 and 509.01(a). Accordingly, the motion to extend

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is granted. Respondent is allowed until October 24, 2014 to serve responses to Petitioner's discovery requests.

On August 20, 2014,² Petitioner filed a motion to consolidate the above-captioned proceedings. Respondent filed a brief in response thereto.

Because the above-captioned proceedings involve the same parties and common questions of law or fact, the Board finds that judicial economy will be served, and overall time and cost to both the parties and the Board will be reduced, by consolidation of the proceedings. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); TBMP § 511 (2014). The Board finds that these considerations outweigh the facts that the motion to consolidate was filed in the waning days of the discovery period in Cancellation No. 92056635 and that the subject registrations for marks containing the word REPORTER in Cancellation No. 92059134 are for different goods. In view thereof, the motion to consolidate is granted.

The consolidated cases may be presented on the same record and briefs. *See Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989); *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board file will be maintained in Cancellation No. 92056635 as the "parent" case. As a general rule, from this point onward, only a single copy of

² The motion to consolidate was filed prior to the close of the discovery period in Cancellation No. 92056635. *See* July 22, 2014 order.

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any submission should be filed herein. That copy, however, should include all of the consolidated proceeding numbers in the caption thereof.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

In keeping with Board practice, the Board hereby adopts the discovery and trial schedule for Cancellation No. 92059134, the most recently instituted of the consolidated proceedings. *See* TBMP § 511. Although Respondent contends that discovery should be closed in Cancellation No. 92056635, the Board notes that the motion to consolidate was filed prior to the close of the discovery period in Cancellation No. 92056635.³ Accordingly, the Board finds that closing the discovery period in that proceeding is unwarranted. For the convenience of the parties and the Board the schedule in Cancellation No. 92059134 is set forth as follows.

Expert Disclosures Due	12/7/2014
Discovery Period Closes	1/6/2015
Plaintiff's Pretrial Disclosures Due	2/20/2015
Plaintiff's 30-day Trial Period Ends	4/6/2015
Defendant's Pretrial Disclosures Due	4/21/2015

³ Although adopting the schedule in Cancellation No. 92059134 will reopen the parties' time in which to serve expert disclosures in Cancellation No. 92056635, the deadline for expert disclosures is linked to the close of the discovery period and the commencement of trial. *See* Fed. R. Civ. P. 26(a)(2)(D)(i); *Miscellaneous Changes to Trademark Trial and Appeal Board Rules*, 72 Fed. Reg. 42242, 42245 (August 1, 2007); TBMP § 401.03. Accordingly, the Board typically resets the deadline for expert disclosures when it resets the close of the discovery period. In any event, the Board notes that expert witnesses are not typically used in Board proceedings. *See* TBMP § 401.03.

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Defendant's 30-day Trial Period Ends	6/5/2015
Plaintiff's Rebuttal Disclosures Due	6/20/2015
Plaintiff's 15-day Rebuttal Period Ends	7/20/2015

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129. If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.