

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: March 20, 2017

Cancellation No. 92064667

Cancellation No. 92064803

Notti LLC

v.

Peeters Produkten B.V.

Amy Matelski, Paralegal Specialist:

On March 7, 2017, the parties filed a stipulated motion to consolidate Cancellation Nos 92064667 and 92064803. The Board notes initially that Registrant 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 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. Cancellation Nos 92064667 and 92064803 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. **92064667** 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.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.

The parties have also requested proceedings be suspended for 90-days for settlement negotiations. Because the parties are negotiating for a possible settlement of this case, proceedings are suspended, subject to the right of either party to request

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.

resumption at any time.² See Trademark Rule 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.

Expert Disclosures Due	10/18/2017
Discovery Closes	11/17/2017
Plaintiff's Pretrial Disclosures Due	1/1/2018
Plaintiff's 30-day Trial Period Ends	2/15/2018
Defendant's Pretrial Disclosures Due	3/2/2018
Defendant's 30-day Trial Period Ends	4/16/2018
Plaintiff's Rebuttal Disclosures Due	5/1/2018
Plaintiff's 15-day Rebuttal Period Ends	5/31/2018
Plaintiff's Opening Brief Due	7/30/2018
Defendant's Brief Due	8/29/2018
Plaintiff's Reply Brief Due	9/13/2018

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

² 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).

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).