

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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Mailed: April 27, 2017

Cancellation No. 92065198

Cancellation No. 92065199

Cancellation No. 92065439

*Faram Holding and Furniture, Inc.*

*v.*

*Faram 1957 S.p.A.*

**Elizabeth A. Dunn, Attorney (571-272-4267):**

This proceeding comes up on Respondent's motion to suspend proceedings pending the disposition of the civil action between the parties; Petitioner's motion with consent to extend time to respond; and the issue of consolidation, which the Board raises sua sponte.

Registration No. 3154260 Cancellation No. 92065198		metal partitions and adjustable wall panels of metal
Registration No. 3154261 Cancellation No. 92065199		non-metal partitions and adjustable wall panels not of metal
Registration No. 3158999 Cancellation No. 92065439		metal office furniture and non-metal office furniture, namely, seats, chairs, reclining chairs, desks, tables, office cabinets and furniture partitions

## CONSOLIDATION

Faram 1957 S.p.A. owns the three registrations for the related marks listed above, all based on Trademark Act Section 66 and listing the identical goods. In each cancellation, Faram Holding and Furniture, Inc. brings essentially the same petition to cancel with claims of abandonment and fraud in 34 numbered allegations. No answer has been filed.

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); and *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991). 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. Because Cancellation Nos. 92065198, 92065199 and 92065439 involve common questions of law or fact, the Board finds that consolidation offers savings in time, effort, and expense, and there is no indication of any prejudice or inconvenience which may be caused by consolidation.

Accordingly, Cancellation Nos. 92065198, 92065199 and 92065439 are 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 Cancellation No. **92065198** as the “parent case.” Inasmuch as these proceedings are being consolidated prior to joinder of the issues in each proceeding, when time to do so has been reset, Respondent should file a separate answer in each cancellation.<sup>1</sup> Each answer must be filed through ESTTA, the Board’s Electronic System for Trademark Trials and Appeals. *See* Trademark Rules 2.106(b)(1) and 2.114(b)(1). Otherwise, only a single copy of all motions and submissions should be filed, and each submission should be filed in the parent case only, but use a caption for the consolidated proceeding, listing and identifying the parent case first.

#### EXTENSION OF TIME TO RESPOND GRANTED

On March 23, 2017, Respondent filed a motion to suspend each proceeding pending final determination of the civil action between the parties. On April 11, 2017, Petitioner filed a consented motion in each proceeding to extend until April 21, 2017 its time to respond to the motion. The consented motion is granted. *See* Trademark Rule 2.127. Petitioner’s response to the motion to suspend is extended to April 21, 2017.

#### SUSPENSION

On April 1, 2016, Respondent filed a complaint in the United States District Court for the Southern District of New York against, among other defendants, Petitioner. *Faram 1957 S.p.A. v. Faram Holding and Furniture, Inc., et al.*, Civil Action No. 1:16-cv-02430-VSB. Among other remedies the complaint seeks to enjoin

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<sup>1</sup> 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.

Petitioner from use of FARAM trademarks. Petitioner's counterclaim filed August 5, 2016 seeks to modify Respondent's trademark registrations to reflect that Petitioner is the proper owner.

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action, which may be dispositive of or have a bearing on the Board case. *See* Trademark Rule 2.117(a). In addition, Petitioner does not object to suspension. Accordingly, proceedings are suspended pending final disposition of the civil action.

Within twenty days after the final determination of the civil action, the parties shall so notify the Board so that this proceeding may be called up for appropriate action.<sup>2</sup> Such notification to the Board should include a copy of any final order or final judgment which issued in the civil action.

During the suspension period, the parties must notify the Board of any address or email address changes for the parties or their attorneys. In addition, the parties are to promptly inform the Board of any other related cases, even if they become aware of such cases during the suspension period. Upon resumption, if appropriate, the Board may consolidate any further related Board cases.

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<sup>2</sup> A proceeding is considered to have been finally determined when an order or ruling that ends litigation has been rendered, and no appeal has been filed, or all appeals filed have been decided and the time for any further review has expired. *See* TBMP § 510.02(b).