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

Proceeding	92067296
Party	Plaintiff Renovation & Design, Inc.
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Submission	Motion to Consolidate
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Date	02/13/2018
Attachments	Renovation Design_20180213_Motion to Consolidate.pdf(106527 bytes)

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

In re Registration No. 4222923
For: RENOVATION REALTY
Registered: October 9, 2012

AND

In re Registration No. 4240597
For: RENOVATION REALTY (and Design)
Registered: November 13, 2012

RENOVATION & DESIGN, INC.,

Petitioner

vs.

RENOVATION REALTY, INC.

Registrant.

Cancellation No. 92067086
Cancellation No. 92067296

**PETITIONER’S MOTION TO
CONSOLIDATE**

Petitioner Renovation and Design, Inc., hereby moves to consolidate the two referenced Cancellation actions, per TBMP 511 and Federal Rule of Civil Procedure 42(a). The latter provides that where “actions before the court involve a common question of law or fact, the court may . . . consolidate the actions . . . to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a); *see e.g. Regatta Sport Ltd.*, 20 U.S.P.Q.2d 1154 (T.T.A.B. Apr. 4, 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 that may be caused thereby.” TMBP 511 (June 2017). Here,

the referenced actions involve common questions of law and fact, and consolidation will promote efficiency, saving the parties and the Board time and expense. Both actions concern the same parties who are represented by the same counsel in the respective proceedings. The marks at issue are substantially similar, the design mark's (registration no. 4240597) literal element comprising of the exact same terms as the word mark (registration no. 4222923). Both proceedings are premised on identical claims of genericness, descriptiveness and likelihood of confusion. Given the similarities between the marks and grounds for cancellation, much of the discovery and evidence at trial will be the same. Further, the parties are likely to present the same and/or similar arguments and evidence in each proceeding. And while there may be some minor factual differences as to Petitioner's potential claims of priority and likelihood of confusion as to the marks, such differences are negligible and can be easily and efficiently managed without any issue. Accordingly, there would be no prejudice or inconvenience in consolidating the proceedings; rather a consolidation would only serve to avoid unnecessary cost or delay.

RESPECTFULLY SUBMITTED,

DATED: February 13, 2018

By: 

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2018, I served the foregoing **PETITIONER'S MOTION TO CONSOLIDATE** on the parties in said action via email to:

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DATED: February 13, 2018

/s/ Marie Richmond

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