

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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kk/wbc

September 17, 2020

Opposition No. 91252714 (parent case)
Cancellation No. 92074531

Coulter Ventures, LLC

v.

Rogue Ridge, LLC

Wendy Boldt Cohen, Interlocutory Attorney:

On June 22, 2020, Opposer/Petitioner filed a motion to consolidate Opposition No. 91252714 and Cancellation No. 92074531. The Board notes initially that Applicant/Respondent has not yet filed its answer in each proceeding for which consolidation is sought.¹

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

¹ Respondent has not yet filed an answer in Cancellation No. 92074531.

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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 Mgmt.*, 27 USPQ2d 1423 (TTAB 1993); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991).

The parties to these proceedings are identical, and the issues are similar or related. Accordingly and because Applicant/Respondent does not object to the motion to consolidate, the motion to consolidate is **granted**. Opposition No. 91252714 and Cancellation No. 92074531 are hereby consolidated and may be presented on the same record and briefs. *See Hilson Research Inc.*, 27 USPQ2d 1423; *Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Opposition No. **91252714** 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. However, inasmuch as these proceedings are being consolidated prior to joinder of the issues in each proceeding, Applicant/Respondent should file a separate answer in Cancellation No. 92074531 before commencing the practice of filing a single copy of all submissions in the parent case.² The 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).*

² 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.

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.

Upon consolidation, the Board will reset dates for the consolidated proceeding, usually by adopting the dates as set in the most recently instituted of the cases being consolidated. Answer, discovery, conferencing, disclosure and trial dates are reset as set forth below.

Time to Answer for Respondent in Cancellation No. 92074531	10/20/2020
Deadline for Discovery Conference	11/19/2020
Discovery Opens	11/19/2020
Initial Disclosures Due	12/19/2020
Expert Disclosures Due	4/18/2021
Discovery Closes	5/18/2021
Plaintiff's Pretrial Disclosures Due	7/2/2021
Plaintiff's 30-day Trial Period Ends	8/16/2021
Defendant's Pretrial Disclosures Due	8/31/2021
Defendant's 30-day Trial Period Ends	10/15/2021
Plaintiff's Rebuttal Disclosures Due	10/30/2021
Plaintiff's 15-day Rebuttal Period Ends	11/29/2021
Plaintiff's Opening Brief Due	1/28/2022
Defendant's Brief Due	2/27/2022
Plaintiff's Reply Brief Due	3/14/2022
Request for Oral Hearing (optional) Due	3/24/2022

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 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).