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

Proceeding no.	92078906
Party	Defendant Purfoods, LLC
Correspondence address	PURFOODS, LLC 3210 SE CORPORATE WOODS DRIVE ANKENY, IA 50021 UNITED STATES Primary email: help@purfoods.com No phone number provided
Submission	Other Motions/Submissions
Filer's name	Wendy K. Marsh
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Signature	/wendy k. marsh/
Date	02/03/2022
Attachments	Purfoods Motion for Consolidation Moms Meals Nourishcare cancellation .pdf(128344 bytes)

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

MY OWN MEALS, INC., Petitioner, v. PURFOODS, LLC, Registrant.	Cancellation No: 92078906 In the matter of: Registration No. 4638408 Mark: MOM’S MEALS NOURISHCARE Filing Date: January 26, 2022
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REGISTRANT’S MOTION FOR CONSOLIDATION

Registrant moves pursuant to Rule 42(a) of the Federal Rules of Civil Procedure (FRCP), Trademark Rule 2.104(b), and §511 of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) to consolidate the instant cancellation proceeding, Cancellation Proceeding No. 92073705 with pending consolidated Opposition Proceeding No. 91254642 (Parent)/Cancellation No. 92073705 (“the Consolidated Proceeding”). In support of this motion, Registrant states as follows.

Where, as here, the proceedings involve common questions of law or fact, the Board is empowered to consolidate the proceedings. See TBMP § 511; FRCP 42(a). In deciding whether to order consolidation, the Board will weigh the benefits of consolidation – savings in time, effort, and expense – against potential prejudice or inconvenience to the parties. See TBMP § 511.

Here, the Proceedings involve the same parties, namely My Own Meals, Inc. (Petitioner and Opposer) and Purfoods, LLC (Registrant and Applicant). Each of the parties is represented

by the same respective counsel in the Proceedings. Each of the Proceedings involves Registrant's application and registrations, all of which incorporate the identical mark, "MOM'S MEALS". In this regard, the Consolidated Proceeding involves Registrant's/Applicant's application for the mark "MOM'S MEALS" and spoon design, U.S. Serial No. 88/611,072 ("the '072 application"), Registrant's Registration No. 2,430,824 ("the '824 registration") for the wording "MOM'S MEALS" and Registrant's Registration No. 4,316,266 ("the '266 registration") for "MOM'S MEALS" and spoon design, while the instant proceeding involves Registrant's Registration No. 4,638,408 for the wording "MOM'S MEALS NOURISHCARE".

In fact, Petitioner originally attempted to add the "MOM'S MEALS NOURISHCARE" registration to the Consolidated Proceeding in its First Amended Petitioner for Cancellation filed in the Consolidated Proceeding on April 20, 2021 (TTABVUE, Paper No. 20), but was denied by the TTAB in its Order dated December 18, 2021 due to Petitioner's failure to pay the requisite cancellation fee for this registration (TTABVUE, Paper No. 29, p. 11). However, Petitioner's attempt to add the "MOM'S MEALS NOURISHCARE" mark to the Consolidated Proceeding demonstrates that Petitioner believed the "MOM'S MEALS NOURISHCARE" mark was appropriate for inclusion in the Consolidated Proceeding.

Common questions of law and fact are presented in each of the Proceedings. *See Wisconsin Cheese Group, LLC v. Comercializadora de Lacteos y Derivados S.A. de C.V.*, 118 USPQ2d 1262, 1264 (TTAB 2016)(motion to consolidate granted based on common questions of law and fact). As set forth above, both of the Proceedings relate to Registrant's application and registrations which include the trademark "MOM'S MEALS". As such, the Proceedings certainly include common questions of law and fact. The present proceeding was just filed and the Consolidated Proceeding is still in the discovery stage.

Because the same parties, same mark, and overlapping claims are involved in both Proceedings, and the Proceedings involve common issue of law and fact, consolidation will result in considerable savings in time, effort and expense. Furthermore, consolidation will also avoid any confusion concerning varying deadlines and will not result in any prejudice or inconvenience to any party. As the Proceedings are both currently stayed, and the discovery phase is ongoing, consolidation will not materially delay the Proceedings.

For the foregoing reasons, Registrant requests that the Board grant this motion and consolidate the present cancellation proceeding, Cancellation Proceeding No. 92078906, and Consolidated Opposition No. 91254642 (parent)/Cancellation No. 92073705.

Dated: February 3, 2022

Respectfully submitted,

/wendy k. marsh/

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ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on this 3rd day of February, 2022, by e-mail, to Petitioner's attorney of record Michele S. Katz, ADVITAM IP, LLC, 150 S. Wacker Drive, Suite 2400, Chicago, IL 60606.

/wendy k. marsh/

Wendy K. Marsh