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

Proceeding	91205350
Party	Plaintiff Johnson & Johnson
Correspondence Address	Jaye S. Campbell DRINKER BIDDLE & REATH LLC 1500 K STREET NW SUITE 1100 WASHINGTON, DC 20005 UNITED STATES jaye.campbell@dbr.com, tmlitdocket@dbr.com
Submission	Motion to Consolidate
Filer's Name	Jaye S. Campbell
Filer's e-mail	jaye.campbell@dbr.com, tmlitdocket@dbr.com
Signature	/Jaye S Campbell/
Date	06/19/2013
Attachments	J&J Dermal Life - Stipulation to Consolidate and Extend Deadlines.pdf(116459 bytes )

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

<u>JOHNSON &amp; JOHNSON,</u>	:	
Opposer,	:	
v.	:	Opposition Nos. 91/205184 (parent)
		91/205350 (child)
DERMAL LIFE LLC	:	
<u>Applicant.</u>	:	

**STIPULATED MOTION TO CONSOLIDATE PROCEEDINGS  
AND TO EXTEND TRIAL CALENDAR FOR SETTLEMENT DISCUSSIONS**

Pursuant to Fed. R. Civ. P. 42(a) and T.B.M.P. 511, Opposer Johnson & Johnson and Applicant Dermal Life LLC hereby stipulate to consolidation of pending Opposition No. 91/205350 with pending Opposition No. 91/205184. In support of this Motion, the parties state as follows:

1. Opposer has filed Opposition No. 91/205350 to Ser. No. 85/401851 – HEALIXADERM for “Anti-inflammatory ointments; Medicated lotions for face and body; Medicated skin preparation for use in treating sunburns, facial wrinkles, dry skin, burns, rashes and wounds; Medicated sun block; Medicated sun care preparations; Medicated sun screen; Pharmaceutical preparations for wounds; Pharmaceutical skin lotions” in Class 5 (the “350 Opposition”) and Opposition No. 91/205184 to Ser. No. 85/401846 – HEALIXADERM for After sun creams; After-sun lotions; Cosmetic creams for skin care; Cosmetic nourishing creams; Cosmetic preparations against sunburn; Facial creams; Moisturizing preparations for the skin; Non-medicated ointments for the prevention and treatment of sunburn; Non-medicated skin care preparations, namely, creams, lotions, gels, ointments and liquids” in Class 3 (the “184 Opposition”).

2. In both the '350 Opposition and the '184 Opposition, Opposer has asserted the identical claim that the HEALIXADERM mark is likely to cause confusion with Opposer's prior-filed HELIDERM mark. In both proceedings, Applicant has asserted the same affirmative defense.

4. The parties are identical in both proceedings.

5. The marks are identical in both proceedings, except that in the '350 Opposition, Applicant's goods are in Class 5 and in the '184 Opposition Applicant's goods are in Class 3.

6. Both opposition proceedings involve common questions of law and fact.

8. Consolidation of the '350 Opposition and the '184 Opposition serves the interests of judicial economy by avoiding duplication of effort and decreases the administrative burden upon the Board in administering and disposing of the two proceedings individually. Moreover, consolidation does not inconvenience or prejudice either party.

**WHEREFORE**, the parties respectfully stipulate that the proceedings be consolidated for all purposes. The parties further request that the Board reset the close of discovery and trial dates as set forth in the '184 proceeding, and that the Board extend such dates thirty (30) days so that the parties may continue their settlement negotiations. Opposer notes that its last-filed suspension request in the '184 Opposition was in error caused by a docketing mistake on Opposer's end. Accordingly, the parties request that the consolidated proceeding adopt the following calendar, as extended 30-days, from the stipulated extension filed and granted in the '184 Opposition on May 23, 2013:

Discovery Closes : 07/22/2013

Plaintiff's Pretrial Disclosures : 09/05/2013

Plaintiff's 30-day Trial Period Ends : 10/20/2013

Defendant's Pretrial Disclosures : 11/4/2013

Defendant's 30-day Trial Period Ends : 12/19/2013

Plaintiff's Rebuttal Disclosures : 1/03/2014

Plaintiff's 15-day Rebuttal Period Ends : 02/02/2014

Respectfully submitted,

JOHNSON & JOHNSON

By: /s/ Jaye S. Campbell  
Norm D. St. Landau  
Jaye S. Campbell  
Drinker Biddle & Reath LLP  
1500 K St., N.W., Suite 1100  
Washington, D.C. 20005  
*Counsel for Opposer*

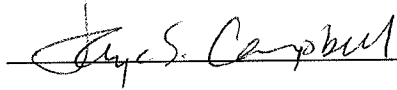
DERMAL LIFE LLC

By: /s/ W.S. Gardiner  
William S. Gardiner  
28 West 62nd Street  
Indianapolis, IN 46260-4204  
*Counsel for Applicant*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served on Applicant's attorney-of-record  
this 19th day of June 2013, via e-mail by the parties agreement, to the following addresses:

William S. Gardiner  
<jdg@indy.net>

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