

In the Supreme Court of Ohio

Crutchfield, Inc.,	:	
	:	Case No. 2015-0386
	:	
Appellant,	:	
	:	Appeal from the Ohio
v.	:	Board of Tax Appeals
	:	
Joseph W. Testa,	:	
Tax Commissioner of Ohio,	:	
	:	BTA Case Nos. 2012-926,
Appellee.	:	2012-3068, 2013-2021

JOINT AMENDED MOTION TO STAY BRIEFING PENDING A DECISION ON APPELLANT'S MOTION TO CONSOLIDATE

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Appellant Crutchfield, Inc. (“Crutchfield”) and Appellee Joseph W. Testa, Tax Commissioner of Ohio (“Commissioner”) move jointly pursuant to S.Ct.Prac.R. 4.01(A)(1) to Stay Briefing Pending a Decision on Appellant’s Motion to Consolidate filed on May 8, 2015 (“Motion to Stay”) to allow for a ruling by the Court on Crutchfield’s pending Motion to Consolidate with Appeal of Newegg Inc. (Case No. 2015-0843) (“Motion to Consolidate”). This Amended Motion is intended to replace the previously filed Motion to Stay Briefing filed by Appellant alone. As grounds for the motion, the parties state as follows:

1. This case was returned to the active docket from mediation on April 28, 2015, and Crutchfield’s merit brief is currently due on June 8, 2015.
2. On May 8, 2015, Crutchfield filed its Motion to Consolidate and a Motion to Stay. At the time of filing, the Commissioner was still considering whether to consent to the motions. While the Commissioner objects to the Motion to Consolidate and plans to file a response, the Commissioner now joins Crutchfield in its Motion to Stay the parties’ briefing pending a ruling on the Motion to Consolidate.
3. As set forth in Appellant’s Motion to Consolidate, Appellant maintains that this appeal and the substantially identical appeal of Newegg Inc. present many common issues for resolution by the Court. If the Court agrees that consolidation is appropriate and grants the Motion to Consolidate, the Court may enter a new briefing schedule to align the briefing for each of the consolidated cases. In addition, counsel anticipates that adjustments to the briefs will be both necessary and appropriate for a consolidated appeal, particularly if the Court orders the filing of joint briefs. A decision on the Motion to Consolidate will therefore directly affect the parties’ briefing.

4. The parties agree that no prejudice will result to either party from a short stay in the briefing schedule to allow the Court to consider and decide the Motion to Consolidate.

For the foregoing reasons, the parties respectfully request that the Court stay the briefing pending a ruling on Crutchfield's Motion to Consolidate.

Filed: May 14, 2015

Respectfully submitted,

s/ Edward J. Bernert

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Joint Amended Motion to Stay Briefing Pending a Decision on Appellant's Motion to Consolidate was sent via the Court's electronic filing system and by U.S. mail to counsel of record for Appellee Tax Commissioner, Daniel W. Fausey and Christine T. Mesirow, Assistant Attorneys General, State of Ohio, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, on this 14th day of May, 2015.

s/ Edward J. Bernert
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