

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**THE OHIO WILLOW WOOD  
COMPANY,**

**Plaintiff,**

v.

**ALPS SOUTH LLC,**

**Defendant.**

**and**

**ALPS SOUTH LLC,**

**Plaintiff,**

v.

**OHIO WILLOW WOOD COMPANY, et  
al.**

**Defendants.**

**Case Nos. 2:05-cv-1039 and 2:09-cv-1027**

**JUDGE EDMUND A. SARGUS, JR.**

**MAGISTRATE JUDGE TERENCE P.  
KEMP**

**ORDER**

In Case No. 2:09-cv-1027 presently before this Court, Alps South LLC (“Alps”) filed suit against The Ohio Willow Wood Company (“OWW”) and Bruce Kania (“Kania”), alleging antitrust violations pursuant to Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2, deceptive trade practices, pursuant to §43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and unfair competition, pursuant to state law. In Case No. 2:05-cv-1039, Alps sought and obtained leave of the Court to amend its counterclaims to add antitrust counterclaims under Sections 1 and 2 of the Sherman Act, and a deceptive trade practices claim under Section 43(a) of the Lanham Act, and to add Kania as a party to its antitrust claim under Section 1 of the Sherman Act. As amended, Alps’s counterclaims in Case No. 2:05-cv-1039 seek precisely the same relief on precisely the same claims and facts as Alps has brought in Case No. 2:09-cv-1027. Because the issues before the Court in both actions involve common questions of law and fact, the Court finds that the two

cases should be consolidated, pursuant to Federal Rule of Civil Procedure 42(a)(2).<sup>1</sup>

Accordingly, it is hereby **ORDERED** that Case No. 2:05-cv-1039 and Case No. 2:09-cv-1027 be consolidated. All future submissions by the parties shall be filed and entered in Case No. 2:05-cv-1039.

**IT IS SO ORDERED.**

3 - 28 - 2011  
**DATED**

  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**

<sup>1</sup> Rule 42 provides, in relevant part: "If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions . . ." Fed. R. Civ. P. 42(a)(2).