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

Proceeding	91185884
Party	Defendant Imagini Holdings Ltd
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Dating DNA LLC, Opposer/Respondent, v. Imagini Holdings Ltd., Applicant/Petitioner.	Opposition No.: 91185884 APPLICANT/PETITIONER’S OPPOSITION TO OPPOSER/RESPONDENT’S MOTION TO CONSOLIDATE PROCEEDINGS
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Opposer/Respondent Dating DNA LLC (“Opposer”) has filed a Motion to Consolidate this Opposition No. 91185884 with the newly filed Opposition No. 91191912. Applicant/Petitioner Imagini Holdings Ltd. (“Applicant”) hereby opposes the Motion to Consolidate (“Motion”) and requests that the oppositions remain as separate proceedings.

Opposer’s Motion is just another veiled effort to sidestep the TTAB’s rules and deadlines. If the two oppositions were consolidated, the discovery periods and disclosure deadlines in the proceedings would be tied together and, as a result, the discovery period and disclosures deadlines in the subject opposition would be reopened. As documented in detail in Applicant’s Opposition to Opposer’s Motion to Reopen Discovery and Re-set Trial Deadlines currently pending before the Board (which Applicant submits is *not* moot and which Applicant requests that the Board review and consider), Opposer has repeatedly disregarded the TTAB rules and discovery and disclosure deadlines issued to govern this proceeding without any showing of excusable neglect. Opposer should not be allowed to circumvent the rules and deadlines now by consolidating this proceeding with

a newly filed opposition and effectively be awarded new discovery and disclosure deadlines despite its past neglect.

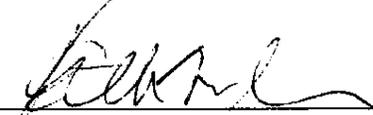
It is within the Board's sole discretion to consolidate two opposition proceedings and the Board has refused to consolidate cases when they are at different stages in the proceedings. TBMP § 511; *see, e.g., Lever Brothers Co. v. Shaklee Corp.*, 214 USPQ 654 (TTAB 1992) (request for consolidation denied where one case at pleading stage and testimony period had expired in another). Applicant requests that the Board similarly exercise its discretion and deny consolidation here, where the discovery period has ended and a number of disclosure deadlines have passed in one case and the parties are still at the answer stage in the other.

The Board may also consider the prejudice caused to the parties in deciding whether to consolidate proceedings. TBMP § 511. Applicant has had to expend significant time and resources on motion practice because of Opposer's flagrant disregard of the Board's rules and deadlines. After all of its wrangling with Opposer to comply with the TTAB's rules and deadlines in this proceeding, Applicant should not now be pushed back to the beginning of discovery and Opposer be allowed to avoid the consequences of its repeated neglect and essentially be given a blank check to manipulate the rules and deadlines.

Applicant therefore respectfully requests that Opposer's Motion to Consolidate be denied and the parties' pending motions be reviewed and decided.

Dated: December 4, 2009

ORRICK HERRINGTON & SUTCLIFFE LLP

By: 

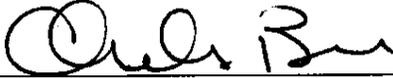
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **APPLICANT/PETITIONER'S OPPOSITION TO OPPOSER/RESPONDENTS MOTION TO CONSOLIDATE PROCEEDINGS** is being served upon counsel for Opposer/Respondent by First Class Mail on this 4th day of December 2009, by placing the same in an envelope addressed as follows:

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By: 
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