

ESTTA Tracking number: **ESTTA295154**

Filing date: **07/14/2009**

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

Proceeding	92045173
Party	Plaintiff Glenn Danzig
Correspondence Address	Paul D. Supnik 9401 Wilshire Blvd., Suite 1012 Beverly Hills, CA 90212 UNITED STATES paul@supnik.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	PAUL D. SUPNIK
Filer's e-mail	paul@supnik.com
Signature	/paul d. supnik/
Date	07/14/2009
Attachments	Plaintiff's motion to suspend 7.14.09.pdf ( 5 pages )(12326 bytes )

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

In the Matter of Trademark Registration Nos.  
2,793,533, 2,634,215 and 2,735,848 Issued on  
December 16, 2003, October 12, 2002 and April 22, 2003, respectively

Glenn Danzig.  
Petitioner,

v.

Cyclopiian Music, Inc.  
Registrant.

Cancellation No. 92045173

Mark: MISFITS

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT**

To the Commissioner for Trademarks:

Glenn Danzig ("Danzig") respectfully requests that the proceedings in the above-captioned cancellation action be suspended to allow the parties to continue their settlement discussions. It is further requested that in the event this matter is not concluded by settlement, dates be reset including the reopening of discovery for a brief

period. The parties have been engaged in settlement negotiations with respect to this cancellation action since the Board's suspension order dated March 17, 2008.

These settlement discussions have involved the three registered "Misfits" marks that Petitioner Glenn Danzig ("Danzig") is attempting to cancel by this action. Over the course of the last few months, the discussions have proceeded to the point where the parties have exchanged settlement proposals and agreed in principle on terms that would resolve the dispute between the parties over ownership and use of the "Misfits" marks. The parties have moved forward since that last motion and have further refined issues regarding future enforcement of the MISFITS marks against third-parties and need additional time to attempt to reach an agreement on this settlement term. As a result of those issues, counsel appear to have come closer to resolution.

However, the parties have only recently directed their attention to trying to resolve the issues in the more recently filed cancellation action which will require additional time. Especially because a degree of cooperation will be at least helpful in carrying out a settlement agreement involving the issues in the main cancellation action, a global settlement of these matters including resolution of the more recently filed cancellation action should be reached. Danzig filed a separate cancellation action (Cancellation No. 92050014) on or around October 6, 2008 seeking to cancel Registration No. 2,770,984 owned by Cyclopien (the "New Cancellation Action") for its "Skull Design" mark. The New Cancellation Action asserts the same or similar grounds as are asserted in this cancellation action. Although the grounds for the New Cancellation Action are substantially the same, the underlying facts related to the creation, ownership and use of the "Skull Design" mark raise new and unrelated issues

that the parties had not considered in their previous settlement discussions. Because the parties still believe that it would be advisable, if possible, to settle both of the cancellation actions in one agreement, the parties need additional time to consider these new issues to determine whether it is feasible to agree to such a settlement. The parties have begun such initial discussions.

With respect to discovery in this cancellation action, in or around May 2006, Cyclopien served interrogatories and document requests which Danzig answered in June 2006. In or around August 2006, Cyclopien subpoenaed certain third parties for documents and testimony and took the deposition of one such third party. Later in August 2006, Cyclopien noticed the deposition of Danzig. Danzig's deposition was scheduled for September 28, 2006 but was postponed after Danzig filed a motion for summary judgment on September 22, 2006.

Danzig has propounded interrogatories, requests for production of documents and requests for Admissions to Cyclopien in or about August 2006. Danzig also noticed the deposition of Cyclopien under FRCP 30(b)(6) in or about August 2006 for September 29, 2006, which was also postponed.

The parties have written discovery requests and deposition notices that remain outstanding.

The parties have informally agreed to extending discovery times beyond the dates previously set forth, to facilitate effectively concentrating on resolving these matter globally.



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 14, 2009, he caused a copy of the above MOTION FOR DEFAULT JUDGMENT to be served by First Class Mail, postage prepaid on this date to:

Curtis B. Krasik, Esq.  
Christopher M. Verdini, Esq.  
K&L GATES LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222

Dated: July 14, 2009

/s/  
By: \_\_\_\_\_  
PAUL D. SUPNIK  
Attorney for Petitioner  
GLENN DANZIG  
9401 Wilshire Boulevard, Suite 1012  
Beverly Hills, CA 90212  
Telephone: (310) 859-0100  
Fax: (310) 388-5645