

ESTTA Tracking number: **ESTTA709837**

Filing date: **11/20/2015**

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

Proceeding	92057182
Party	Defendant Pasquale Rotella and Insomniac Holdings, LLC
Correspondence Address	CHRISTOPHER T VARAS KILPATRICK TOWNSEND & STOCKTON LLP 1420 5TH AVE STE 3700 SEATTLE, WA 98101 UNITED STATES cvaras@kilpatricktownsend.com, colin@kaufmanlawgrouppla.com
Submission	Motion to Consolidate
Filer's Name	Christopher T. Varas
Filer's e-mail	cvaras@kilpatricktownsend.com, jewilson@kilpatricktownsend.com, tadmin@kilpatricktownsend.com
Signature	/Christopher T. Varas/
Date	11/20/2015
Attachments	Stipulation to Consolidate Enos and Richards Proceedings - FULLY EX-ECUTED.pdf(152976 bytes)

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

In the Matter of Reg. No. 3,777,422
Mark: ELECTRIC DAISY CARNIVAL

GARY RICHARDS,

Petitioner,

v.

INSOMNIAC HOLDINGS, LLC,

Registrant.

Cancellation No. 92061310

In the Matter of Registration Nos. 3,777,422 and 4,090,760
Marks: ELECTRIC DAISY CARNIVAL and EDC

STEPHEN R. ENOS.

Petitioner,

v.

INSOMNIAC HOLDINGS, LLC,

Registrant.

Cancellation No. 92057182

JOINT STIPULATION FOR CONSOLIDATION OF PROCEEDINGS

The Parties to the proceedings identified above, by their undersigned counsel, hereby file this joint stipulation and request to consolidate Cancellation Action Nos. 92061310 and 92057182, pursuant to Fed. R. Civ. P. 42(a). As their basis for this joint request, the Parties note as follows:

1. The actions to be consolidated both seek cancellation of the mark ELECTRIC DAISY CARNIVAL, Registration No. 3,777,422, owned by Insomniac Holdings, LLC.

2. In both proceedings, the Petitioners each allege that they co-own the ELECTRIC DAISY CARNIVAL mark, that the Registrant has no rights in or to the mark ELECTRIC DAISY CARNIVAL mark, and that any use of the mark by or on behalf of the Registrant's predecessor, Pasquale Rotella, was pursuant to a license granted by Petitioners to Rotella.

3. The two proceedings involve common questions of fact and law as they both relate to the existence of a license to use the ELECTRIC DAISY CARNIVAL mark and the effect of the claimed license and both proceedings will rely upon the same discovery and utilize the same witnesses.

4. Consolidation likely will save time, effort and expense of the Parties and the Board and will avoid the possibility of inconsistent judgments as to the existence and effect of a license.

5. No prejudice or inconvenience will be caused by consolidation.

Accordingly, the Parties request that the Board approve their Joint Stipulation to consolidate the proceedings and ask that the Board reset the dates for the Consolidated Proceeding by adopting the dates set out in the most recently instituted case, Cancellation No. 92061310.

Dated: New York, New York
November 20, 2015

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____



Robert A. Becker

866 United Nations Plaza
New York, New York 10017
Tel.: 212-813-5900

Attorneys for Petitioner Gary Richards

Dated: Sherman Oaks, CA
November 19, 2015

THE RUDD LAW FIRM, P.C.

By: 

Christopher L. Rudd

15233 Ventura Blvd. Suite 320
Sherman Oaks, CA 91403
Tel: (310) 457-4072

Attorneys for Petitioner Stephen Enos

Dated: Beverly Hills, CA
November 20, 2015

KILPATRICK TOWNSEND & STOCKTON
LLP

By: 

Christopher T. Varas

9720 Wilshire Blvd.
Penthouse Suite
Beverly Hills, CA 90212
Tel: 310-248-3830

*Attorneys for Registrant Insomniac Holdings
LLC*