

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: December 10, 2015

Cancellation No. 92057182 (**parent**)

Stephen R. Enos

v.

Pasquale Rotella, and
Insomniac Holdings, LLC

-----and -----

Cancellation No. 92061310

Gary Richards

v.

Insomniac Holdings, LLC

Robert H. Coggins,
Interlocutory Attorney:

Consolidation

Respondents' stipulated motion (filed November 20, 2015, in each case¹) to consolidate Cancellation Nos. 92057182 and 92061310 is **granted**. Fed. R. Civ. P.

¹ The filings fail to indicate proof of service of a copy of same upon Petitioners as required by Trademark Rule 2.119. In order to expedite this matter, Petitioners are directed to the following URLs where they may view a copy of each filing:

<http://ttabvueint.uspto.gov/ttabvue/v?pno=92057182&pty=CAN&eno=46>

<http://ttabvue.uspto.gov/ttabvue/v?pno=92061310&pty=CAN&eno=15>

Strict compliance with Trademark Rule 2.119 is required in all future papers filed with the Board.

42(a). The record will be maintained in Cancellation No. 92057182 as the “parent” case. The parties should no longer file separate papers in connection with each proceeding, but file only a single copy of each paper in the parent case. Each paper filed should bear the numbers of both consolidated proceedings in ascending order, and the parent case should be so designated in the case caption.

Consolidated cases do not lose their separate identity because of consolidation. Each proceeding retains its separate character and requires entry of a separate judgment. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings and a copy of the final decision will be placed in each proceeding file. *See Dating DNA LLC v. Imagini Holdings Ltd.*, 94 USPQ2d 1889, 1893 (TTAB 2010).

Because Petitioners are represented by different counsel, they are allowed until **fifteen days** from the mailing date of this order in which to appoint one lead counsel to supervise and coordinate the conduct of their cases and to file a paper with the Board indicating the appointment. *See* TBMP §§ 117.02 and 511 (2015). Upon appointment of lead counsel, the Board will send one official copy of any Board communication to Petitioners’ lead counsel, but the parties are free to request that both counsels’ email addresses are used by the Board. Lead counsel will then be responsible for making and distributing copies of any Board communication to counsel for the other petitioner. *See* TBMP § 117.02.

With respect to testimony, Petitioners may stipulate to submit testimony on behalf of both petitioners regarding their asserted claims during their designated

testimony period. Each petitioner, however, must submit appropriate testimony to prove his individual standing. To the extent each petitioner wishes to submit his own testimony in support of his individually-asserted claims, the parties should cooperate with Respondents' counsel to schedule any testimony depositions on the same or consecutive days so as not to inconvenience Respondents or their counsel. Petitioners may also stipulate to file notices of reliance on behalf of both petitioners.

Finally, to the extent possible, Petitioners should file a single final brief on the merits on behalf of both petitioners. Similarly, Respondents also should file a single final brief on the merits in defense of Petitioners' asserted claims.

Schedule

Dates for these consolidated proceedings are **reset** on the following schedule which contemplates the current schedule, as reset, in the most recently instituted case (Cancellation No. 92061310):

Expert Disclosures Due	2/25/2016
Discovery Closes	3/26/2016
Plaintiff's Pretrial Disclosures	5/10/2016
Plaintiff's 30-day Trial Period Ends	6/24/2016
Defendant's Pretrial Disclosures	7/9/2016
Defendant's 30-day Trial Period Ends	8/23/2016
Plaintiff's Rebuttal Disclosures	9/7/2016
Plaintiff's 15-day Rebuttal Period Ends	10/7/2016

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in

Cancellation Nos. 92057182 & 92061310

accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.