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

Proceeding	92073343
Party	Plaintiff Jam City, Inc.
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Submission	Motion to Consolidate
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Date	04/24/2020
Attachments	Jam City Motion to Consolidate.pdf(763179 bytes )

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

*In the matter of Registration Nos. 5780987, 5780982  
For the Trademark CANDY GENIES*

*In the matter of Registration Nos. 5780969, 5780967  
For the Trademark FRUIT GENIES*

*In the matter of Registration Nos. 5804215, 5804216  
For the Trademark SOLITAIRE GENIES*

JAM CITY, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92073380
	)	Cancellation No. 92073343
	)	Cancellation No. 92073408
HANGZHOU MENGKU TECHNOLOGY,	)	
CO., LTD.,	)	
Registrant.	)	
_____	)	

**PETITIONER'S MOTION TO CONSOLIDATE AND EXTEND DATES  
WITH REGISTRANT'S CONSENT**

Pursuant to Federal Rules of Civil Procedure 42(a) and TBMP § 511, Petitioner Jam City, Inc. ("Petitioner") hereby moves to consolidate the above-referenced cancellation proceedings, and extend discovery and trial dates. Petitioner requests that, if consolidated, the schedule in the consolidated proceeding remains the same as currently set in Cancellation Nos. 92073380, 92073343 and 92073408. This Motion is made with the consent of counsel for Registrant.

Fed. R. Civ. P. 42(a), as made applicable by Trademark Rule 2.116(a), provides that when actions involving a common question of law and fact are pending before the Board, it may order all the actions consolidated. In determining whether to consolidate cases, the Board weighs the savings in time, effort, and expense that may be gained from consolidation against any prejudice

or inconvenience that may be caused by consolidation. *See* TBMP § 511 and cases cited therein; *see also, e.g., Ritchie v. Simpson* 41 USPQ2d 1859 (TTAB 1996), *rev'd on other grounds*, 50 USPQ2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); *Regatta Sport Ltd. v. Telux- Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Federated Department Stores, Inc. v. Gold Circle Insurance Co.*, 226 U.S.P.Q. 262 (TTAB 1985).

Consolidation is warranted here because the cancellation proceedings involve the same parties, similar marks asserted by the Petitioner, related products and services, common questions of law and fact, similar evidence, and a similar legal analysis will determine the result in each proceeding. *Cf. S. Industries Inc. v. Lamb- Weston Inc.*, 45 USPQ2d 1293, 1 297 (TTAB 1997) (both proceedings involved the same mark and virtually identical pleadings).

Jam City has petitioned to cancel all marks on the basis that Registrant had not used the marks in commerce, within the meaning of Section 1(a) of the Trademark Act, at the time Registrant filed its use-based applications for the marks. Jam City has also alleged harm in all proceedings based on a likelihood of confusion and Jam City and Registrant's positions as direct competitors in the mobile gaming market. Finally, with the exception of Registrant's counterclaim in Proceeding No. 92073408, Registrant's answers in each proceeding are – consistent with the Petitions for Cancellation – highly similar, including similar factual and legal claims.

All three proceedings are still in the early stages of disclosure and discovery, but the schedule for each proceeding is currently set to a slightly different timeline. For example, there is an April 14, 2020 discovery conference deadline in Proceeding No. 92073343, a May 18, 2020 discovery conference deadline in Proceeding No. 92073380, and a May 26, 2020 discovery conference deadline in Proceeding No. 92073408.

The parties therefore respectfully submit that the consolidation of these cancellations will reduce the number of filings before the Board, prevent redundancies, streamline case proceedings, and assist both the Board and the parties in maintaining the cases on the same schedule. The parties are further in agreement to consolidate the oppositions; therefore, neither party will be prejudiced or inconvenienced. Thus, consolidation will result in judicial economy for the Board and a savings of time and resources for both the Board and the parties. As a result, consolidation is appropriate.

In accordance with the above, Petitioner respectfully requests, with Registrant’s consent, that the Board reset consolidated discovery and trial dates as set forth below. The Parties have further mutually agreed to a 30-day extension of Petitioner’s deadline to respond to Registrant’s counterclaim and corresponding revision of all subsequent deadlines, with the shared hope of promoting settlement discussions between the parties.

<b>Deadline Description</b>	<b>Current Schedule in Cancellation No. 92073343 CANDY GENIES</b>	<b>Current Schedule in Cancellation No. 92073380 FRUIT GENIES</b>	<b>Current Schedule in Cancellation No. 92073408 SOLITAIRE GENIES</b>	<b>Proposed Consolidated Deadline</b>
Time to Answer Counterclaim	N/A	N/A	4/26/2020	<b>5/26/2020</b>
Deadline for Discovery Conference	4/14/2020	5/18/2020	5/26/2020	<b>Completed</b>
Discovery Opens	4/14/2020	5/18/2020	5/26/2020	<b>6/26/2020</b>
Initial Disclosures Due	5/14/2020	6/17/2020	6/25/2020	<b>7/27/2020</b>
Expert Disclosures Due	9/11/2020	10/15/2020	10/23/2020	<b>11/23/2020</b>
Discovery Closes	10/11/2020	11/14/2020	11/22/2020	<b>12/22/2020</b>
Plaintiff’s Pretrial Disclosures Due	11/25/2020	12/29/2020	1/6/2021	<b>2/5/2021</b>
Plaintiff’s 30-day Trial Period Ends	1/9/2021	2/12/2021	2/20/2021	<b>3/22/2021</b>
Defendant/Counterclaim Plaintiff’s Pretrial Disclosures Due	1/24/2021	2/27/2021	3/7/2021	<b>4/6/2021</b>
Defendant/Counterclaim Plaintiff’s 30-day Trial Period Ends	3/10/2021	4/13/2021	4/21/2021	<b>5/21/2021</b>
Plaintiff/Counterclaim Defendant’s Rebuttal Pretrial Disclosures Due	3/25/2021	4/28/2021	5/6/2021	<b>6/7/2021</b>

<b>Deadline Description</b>	<b>Current Schedule in Cancellation No. 92073343 CANDY GENIES</b>	<b>Current Schedule in Cancellation No. 92073380 FRUIT GENIES</b>	<b>Current Schedule in Cancellation No. 92073408 SOLITAIRE GENIES</b>	<b>Proposed Consolidated Deadline</b>
Plaintiff/Counterclaim Defendant's 30-day Trial Period for Rebuttal Ends	4/24/2021	5/28/2021	6/20/2021	<b>7/20/2021</b>
Defendant/Counterclaim Plaintiff's Rebuttal Pretrial Disclosures Due	N/A	N/A	7/5/2021	<b>8/4/2021</b>
Defendant/Counterclaim Plaintiff's 15-day Trial Period for Rebuttal Ends	N/A	N/A	8/4/2021	<b>9/3/2021</b>
Plaintiff's Opening Brief Due	6/23/2021	7/27/2021	10/3/2021	<b>11/2/2021</b>
Defendant/Counterclaim Plaintiff's Combined Brief Due	7/23/2021	8/26/2021	11/2/2021	<b>12/2/2021</b>
Plaintiff/Counterclaim Defendant's Combined Rebuttal Brief Due	8/7/2021	9/10/2021	12/2/2021	<b>1/10/2022</b>
Defendant/Counterclaim Plaintiff's Rebuttal Brief Due	N/A	N/A	12/17/2021	<b>1/25/2022</b>
Request for Oral Hearing (optional) Due	8/17/2021	9/20/2021	12/27/2021	<b>2/4/2022</b>

Accordingly, Petitioner requests with Registrant's consent that the Board consolidate Cancellation Proceedings No. and set a consolidated discovery and trial schedule in accordance with the above.

*(Signatures to follow on next page.)*

Dated: April 24, 2020

JAM CITY, INC.

By: /Bobby A. Ghajar/

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Counsel for Petitioner

Dated: April 24, 2020

HANGZHOU MENGKU TECHNOLOGY, CO., LTD.  
consents to the Motion to Consolidate:

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Counsel for Registrant

**CERTIFICATE OF SERVICE**

I, Rose Kautz, hereby certify that a true and complete copy of the foregoing **PETITIONER'S MOTION TO CONSOLIDATE AND EXTEND DATES WITH REGISTRAN'S CONSENT** has been served on Registrant Hangzhou Mengku Technology, Co., Ltd.'s counsel by forwarding said copy via email, to:

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Signed: 

By: /Rose Kautz/