

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
General Email: TTABInfo@uspto.gov

RA

September 29, 2020

**Cancellation No. 92073343
(parent case)**

Cancellation No. 92073380
Cancellation No. 92073408

Jam City, Inc.

v.

Hangzhou Mengku Technology Co., Ltd.

**M. Catherine Faint,
Interlocutory Attorney:**

On April 4, 2020, Petitioner filed a motion to consolidate the above listed proceedings with Respondent's consent. The Board notes initially that Respondent has filed its answers to the petitions to cancel and Petitioner has filed its answer to the counterclaim in Cancellation No. 92073408 in these proceeding for which consolidation is sought.¹

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate*

¹ Respondent's change of correspondence address, filed March 26, 2020 is noted and made of record.

Cancellation No. 92073343, 92073380 and 92073408

of *Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby.

Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, e.g., Hilson Research, Inc. v. Society for Human Resource Mgmt.*, 27 USPQ2d 1423, 1424 n. 1 (TTAB 1993).

The parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is granted. Cancellation Nos. 92073343, 92073380 and 92073408 are hereby consolidated and may be presented on the same record and briefs. *See Id.*; and *Helene Curtis Indus., Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Cancellation No. 92073343 as the “parent case.” From this point on, only a single copy of all motions and submissions should be filed, and each submission should be filed in the parent case only, but caption all consolidated proceeding numbers, listing and identifying the “parent case” first.²

Despite being consolidated, each proceeding retains its separate character and requires entry of a separate judgment. The decision on the consolidated cases shall

² The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

take into account any differences in the issues raised by the respective pleadings; a copy of the decision shall be placed in each proceeding file.

Dates are reset for the consolidated proceeding, as proposed by the parties, as set forth below.³

Discovery Opens	6/26/2020
Initial Disclosures Due	7/27/2020
Expert Disclosures Due	11/23/2020
Discovery Closes	12/22/2020
Pretrial Disclosures Due for Party in Position of Plaintiff in Original Claim	2/5/2021
30-day Trial Period Ends for Party in Position of Plaintiff in Original Claim	3/22/2021
Pretrial Disclosures Due for Party in Position of Defendant in Original Claim and in Position of Plaintiff in Counterclaim	4/6/2021
30-day Trial Period Ends for Party in Position of Defendant in Original Claim, and in Position of Plaintiff in Counterclaim	5/21/2021
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Original Claim and in Position of Defendant in Counterclaim	6/7/2021
30-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Original Claim, and in Position of Defendant in Counterclaim	7/20/2021
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Counterclaim	8/4/2021
15-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Counterclaim	9/3/2021
Opening Brief for Party in Position of Plaintiff in Original Claim Due	11/2/2021
Combined Brief for Party in Position of Defendant in Original Claim and Opening Brief as Plaintiff in Counterclaim Due	12/2/2021

³ The Board notes that the parties have adopted dates slightly different from the usual schedule.

Combined Rebuttal Brief for Party in Position of Plaintiff in Original Claim and Brief as Defendant in Counterclaim Due	1/10/2022
Rebuttal Brief for Party in Position of Plaintiff in Counterclaim Due	1/25/2022
Request for Oral Hearing (optional) Due	2/4/2022

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).