

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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July 6, 2021

Cancellation No. 92076463 (Parent Case)
Cancellation No. 92076469
Cancellation No. 92076471
Cancellation No. 92076483
Cancellation No. 92076499
Cancellation No. 92076516
Cancellation No. 92076554

Peloton Interactive, Inc.

v.

Mad Dogg Athletics, Inc.

Ashley D. Hayes, Interlocutory Attorney:

The Board consolidated these proceedings on May 6, 2021. 7 TTABVUE.¹ Prior to consolidation, Respondent filed a motion for a more definite statement and to strike in Cancellation No. 92076483, and motions to dismiss, or in the alternative, motions for a more definite statement and to strike in each of the other consolidated proceedings (herein “Respondent’s Motions”).²

¹ Citations to the record or briefs in this order include citations to the publicly available documents on TTABVUE, the Board’s electronic docketing system. *See, e.g., Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6(TTAB 2014). The number preceding “TTABVUE” corresponds to the docket entry number; the number(s) following “TTABVUE” refer to the page number(s) of that particular docket entry. Citations herein are to the parent proceeding only unless otherwise indicated.

² *See* 6 TTABVUE in each of the consolidated proceedings.

On May 17, 2020, Petitioner filed an amended petition to cancel in each of the consolidated proceedings.³ On June 7, 2021, Respondent filed a request for clarification of proceeding deadlines in view of Petitioner's amended pleadings. Respondent's request for clarification is **granted**.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f). *See* Trademark Rule 2.115; TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 507.01 (2021).

Petitioner's amended petitions to cancel were filed as a matter of course within 21 days of Respondent's Motions. Accordingly, the amended petitions to cancel are accepted as Petitioner's operative pleading in each of the consolidated proceedings. *See* Fed. R. Civ. P. 15(a)(1)(B).

In view of the foregoing, Respondent's Motions are **moot** and will be given no consideration.

Pursuant to its inherent authority to manage the cases on its docket, Respondent is allowed until **THIRTY (30) DAYS** from the date of this order to respond to the amended petition to cancel in each of the consolidated proceedings. Respondent is reminded that its answer to each of the amended petitions should be filed in the

³ See 8 TTABVUE (herein and in Canc. Nos. 92076469, 92076471, 92076499, 92076516, and 92076554) and 9 TTABVUE (in Canc. No. 92076483).

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relevant proceeding as an exception to the general rule that all filings be made in the parent case only.

These consolidated proceedings are **RESUMED**. Conference, discovery and trial dates are **RESET** as follows:

Time to Answer	8/5/2021
Deadline for Discovery Conference	9/4/2021
Discovery Opens	9/4/2021
Initial Disclosures Due	10/4/2021
Expert Disclosures Due	2/1/2022
Discovery Closes	3/3/2022
Plaintiff's Pretrial Disclosures Due	4/17/2022
Plaintiff's 30-day Trial Period Ends	6/1/2022
Defendant's Pretrial Disclosures Due	6/16/2022
Defendant's 30-day Trial Period Ends	7/31/2022
Plaintiff's Rebuttal Disclosures Due	8/15/2022
Plaintiff's 15-day Rebuttal Period Ends	9/14/2022
Plaintiff's Opening Brief Due	11/13/2022
Defendant's Brief Due	12/13/2022
Plaintiff's Reply Brief Due	12/28/2022
Request for Oral Hearing (optional) Due	1/7/2023

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, the manner and timing of taking testimony, matters in evidence, and the procedures for

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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).