

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: September 14, 2011

Opposition No. 91189169

Natural Couture, Inc.

v.

Xtreme Couture, Inc

**George C. Pologeorgis,
Interlocutory Attorney:**

Applicant filed its answer in this case on July 14, 2009. By order dated January 13, 2011, the Board, *inter alia*, reset the deadline for the parties' discovery conference for January 16, 2011, as well as all subsequent trial dates accordingly. By the same order, the Board advised the parties that the Board will not suspend proceedings for settlement until the parties conduct their required discovery conference since one of the purposes of the discovery conference is to discuss settlement.

Despite the aforementioned advisory, on September 12, 2011, opposer filed a consented motion to suspend these proceedings for three months so that the parties may pursue settlement negotiations even though the parties have yet to conduct their discovery conference.

In its announcement of the final rule requiring discovery conferences, the Board stated:

The Board anticipates it will be liberal in granting extensions or suspensions of time to answer, when requested to accommodate settlement talks or submission of the dispute to an arbitrator or mediator. However, if a motion to extend or suspend for settlement talks, arbitration or mediation is not filed prior to answer, then the parties will have to proceed, after the answer is filed, to their discovery conference, one point of which is to discuss settlement. It is unlikely the Board will find good cause for a motion to extend or suspend for settlement if the motion is filed after answer but prior to the discovery conference, precisely because the discovery conference itself provides an opportunity to discuss settlement.

"Miscellaneous Changes to Trademark Trial and Appeal Board Rules," 72 Fed. Reg. 42242, 42245 (Aug. 1, 2007) (emphasis added).

Accordingly, inasmuch as opposer's consented motion to suspend for settlement negotiations was filed after the filing of applicant's answer but prior to the reset deadline for the parties' discovery conference and because the purpose of the discovery conference is to afford the parties an opportunity to discuss settlement, opposer's consented motion to suspend for settlement is denied for a lack of showing of good cause.

The Board notes, however, that the reset deadline for the parties' discovery conference has long since expired. Therefore, in order to afford the parties time in which to prepare for said conference, the deadline for the discovery conference and all subsequent trial dates are reset as follows:¹

Deadline for Discovery Conference	9/30/2011
Discovery Opens	9/30/2011
Initial Disclosures Due	10/30/2011
Expert Disclosures Due	2/27/2012
Discovery Closes	3/28/2012
Plaintiff's Pretrial Disclosures	5/12/2012
Plaintiff's 30-day Trial Period Ends	6/26/2012
Defendant's Pretrial Disclosures	7/11/2012
Defendant's 30-day Trial Period Ends	8/25/2012
Plaintiff's Rebuttal Disclosures	9/9/2012
Plaintiff's 15-day Rebuttal Period Ends	10/9/2012

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 taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in 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.

¹ Once the parties conduct their discovery conference by the deadline set forth in this order, the parties may file a consented motion to suspend for settlement, if they so choose.