

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

em

Mailed: April 7, 2014

Opposition No. 91206295

Lauer Enterprises, Inc.

v.

OHbaby Limited

Eric McWilliams, Supervisory Paralegal:

Applicant's consented motion filed February 25, 2014 to extend trial dates is noted.¹

The Board notes that applicant has indicated that the parties have not held their required discovery conference and applicant seeks, with an allegation of opposer's consent, time for the parties to negotiate settlement. The parties are reminded that the trademark rules place on the parties a shared responsibility to conference to discuss the scope of the pleadings, the possibility of settlement and planning for disclosures and discovery, as explained in the notice of institution. The Board does not find in opposer's motion good cause to delay the parties' required conference to allow for settlement talks when the

¹ The parties may not use the ESTTA "consent motions" forms until after the deadline for initial disclosure. Any motion to extend or suspend prior to initial disclosure should be drafted by the moving party, include a proposed schedule (in the same format as the Board's institution order) with a full set of deadlines, and be filed using the ESTTA "general filings" option. See ESTTA important user guidelines at http://www.uspto.gov/web/offices/dcom/ttab/ttab_notification.pdf.

parties are required to discuss settlement in the conference. See "Miscellaneous Changes to Trademark Trial and Appeal Board Rules," 72 Fed. Reg. 42242, 42245 (Aug. 1, 2007):

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.

Inasmuch as the circumstances recited in the extension request are not deemed to be extraordinary in nature, the request is denied. Nonetheless, because the parties may not, under the applicable rules, engage in discovery activities without first making the required initial disclosures, the deadline for making such disclosures and all subsequent dates are hereby reset as follows:²

See Trademark Rule 2.120(a)(2).

Initial Disclosures Due	5/7/2014
Expert Disclosures Due	9/4/2014
Discovery Closes	10/4/2014
Plaintiff's Pretrial Disclosures	11/18/2014
Plaintiff's 30-day Trial Period Ends	1/2/2015
Defendant's Pretrial Disclosures	1/17/2015
Defendant's 30-day Trial Period Ends	3/3/2015
Plaintiff's Rebuttal Disclosures	3/18/2015
Plaintiff's 15-day Rebuttal Period Ends	4/17/2015

² The trial dates issued in the Board's January 27, 2014 order are modified by this order.

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 accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.³

³ Applicant's change of address dated February 23, 2014 is noted and the Board's records have been updated accordingly.