

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

Mailed: January 15, 2014

Opposition No. 91208103

IdenTrust, Inc.

v.

MorphoTrust USA, Inc.

**Robert Coggins,  
Board Attorney:**

Motion to Suspend

Now before the Board is opposer's consented motion (filed November 21, 2013) to suspend proceedings for settlement. When filing the motion via ESTTA, opposer answered that the parties have not yet held the discovery conference; this is curious because the Board's August 19, 2013 order reminded the parties of their mutual obligation to hold the discovery conference.

While the Board is liberal in granting suspensions or extensions of time to answer, when requested to accommodate settlement talks, the Board is not liberal in granting suspensions or extensions of time for settlement talks after the answer is filed but prior to the parties' discovery conference. The "Miscellaneous Changes to Trademark Trial

and Appeal Board Rules," 72 Fed. Reg. 42242, 42245 (August 1, 2007), provides:

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.

Opposer's motion to suspend was filed after the answer but prior to the parties' discovery conference. The Board does not find good cause to suspend proceedings for settlement herein because the discovery conference itself provides an opportunity to discuss settlement. Inasmuch as the motion does not provide any compelling reason for suspension, it is **denied**.

The parties must hold the mandatory settlement and discovery conference on or before **February 7, 2014**. If, after the conference, the parties are interested in a suspension of proceedings, the Board will consider such a request upon the filing of a new motion.

#### Future Reports Required

Over the past year, the Board has granted the parties nine months of suspension to accommodate settlement discussions. In view of the time already allowed for settlement, any future motion to extend, suspend, or reopen

that is based on settlement must be supported by a detailed report to establish good cause by reciting (1) the dates on which the parties have communicated since the last motion, (2) the method of each communication (e.g., telephone, email, in-person, etc.), (3) the general nature of each communication, (4) a list of issues that have been resolved, (5) a list of issues that remain to be resolved or remain for trial, and (6) a proposed timetable for resolution of the unresolved issues; failing which, the prospective motion may not be approved, even if consented by the parties.<sup>1</sup> See TBMP § 510.03(a) (3d ed. rev.2 2013).

Schedule

Dates remain as set, with the addition of a firm deadline for the parties to hold the mandatory discovery conference under Trademark Rule 2.120 (a)(1) and (a)(2).<sup>2</sup> For the parties' convenience, dates are as follows:

Deadline for Discovery Conference	<b>2/7/2014</b>
Expert Disclosures Due	<b>2/27/2014</b>
Discovery Closes	<b>3/29/2014</b>
Plaintiff's Pretrial Disclosures	<b>5/13/2014</b>

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<sup>1</sup> Inasmuch as reports are now required, the parties may no longer use the "Consent Motions" forms in ESTTA.

<sup>2</sup> Inasmuch as the Board previously discussed the issue of initial disclosures (see Order dated August 19, 2013), and opposer used the ESTTA consent motion form wizard for the latest filing, the Board presumes that the parties have served initial disclosures (even though opposer has represented that the parties have not yet held their discovery conference). If the parties have not served initial disclosures, the must serve them within thirty days of this order.

Plaintiff's 30-day Trial Period Ends	6/27/2014
Defendant's Pretrial Disclosures	7/12/2014
Defendant's 30-day Trial Period Ends	8/26/2014
Plaintiff's Rebuttal Disclosures	9/10/2014
Plaintiff's 15-day Rebuttal Period Ends	10/10/2014

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.