

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

Mailed: May 28, 2013

Opposition No. 91209496

Vuly Pty Ltd

v.

Defy Gravity, LLC

Millicent Canady, Paralegal Specialist:

Opposer's consented motion (filed May 2, 2013) to suspend the deadline for the discovery conference is **denied**. If the suspension is based on the parties' desire to discuss settlement, then the parties are reminded that while the Board is liberal in granting suspensions or extensions of time to answer, when requested to accommodate settlement talks or submission of the dispute to an arbitrator or mediator, the Board is not liberal in granting suspensions or extensions of time to suspend for settlement talks, arbitration or mediation 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 extend the deadline for the discovery conference because no reason, excuse, or facts are provided by applicant on which such a finding of good cause can be made. Moreover, if the purpose of the suspension is for settlement discussions, the Board does not find good cause to extend, in addition, because the discovery conference itself provides an opportunity to discuss settlement. Inasmuch as the motion does not provide a compelling reason for a suspension, it is denied.

Accordingly, dates remain as set in the Board's February 26, 2013 order. See Trademark Rule 2.120(a)(2). The parties are reminded that they share 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.