

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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wbc

Mailed: February 9, 2016

Opposition No. 91217235

*Financial Industry Regulatory
Authority, Inc.*

v.

Voice Proctor, Inc.

Wendy Boldt Cohen, Interlocutory Attorney:

This case now comes before the Board on:

1. Opposer's motion to suspend for settlement filed October 15, 2015; and
2. Applicant's combined response thereto and motion to dismiss pursuant to Trademark Rule 2.132(a) filed October 16, 2015.

Opposer contests Applicant's motion to dismiss. The Board has considered the parties' submissions and presumes the parties' familiarity with the arguments made therein. The parties' arguments will not be summarized herein except as necessary to explain the Board's decision.

Flowing from the Board's inherent power to schedule disposition of the cases on its docket is the power to stay proceedings, which may be exercised by the Board upon its own initiative, upon motion, or upon stipulation of the parties approved by the Board. *See* Trademark Rule 2.117; *Schering-Plough Animal Health Corp. v. Aqua Gen AS*, 90 USPQ2d 1184, 1185 (TTAB 2009); *Carrini, Inc. v. Carla Carini, S.R.L.*, 57 USPQ2d 1067, 1071 (TTAB 2000);

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Opticians Association of America v. Independent Opticians of America Inc., 734 F. Supp. 1171, 14 USPQ2d 2021, 2029 (D.N.J. 1990) (“The power to stay a cancellation proceeding resides only in the Board itself.”) (citing *The Other Tel. Co. v. Conn. National Tel. Co.*, 181 USPQ 779, 782 (Comm’r 1974)), *rev’d on other grounds*, 920 F.2d 187, 17 USPQ2d 1117 (3d Cir. 1990). Although the Board is generally generous with periods of suspension for settlement, the Board will not suspend proceedings indefinitely upon allegations of settlement activities. *See* TBMP § 510.03(a). While parties are encouraged to settle their cases, the Board has an interest in seeing its cases conclude in a timely manner. *Cf. Shen Manufacturing Co. v. Ritz Hotel Ltd*, 393 F.3d 1238, 73 USPQ2d 1350, 1353 n.2 (Fed. Cir. 2004). The Board may, in its discretion, deny further suspension when the parties have already been granted a reasonable time to settle the case and it does not appear that further suspension is likely to result in resolution of the dispute.

Opposer alleges, *inter alia*, that the parties have exchanged settlement proposals; that “Opposer did not receive the final-offer draft until six days ago”; and that Opposer executed a settlement agreement and sent it to Applicant on October 16, 2015 – the same day the motion to dismiss was filed. Applicant contests further suspension or extension of these proceedings but does not dispute that Opposer received the final offer of settlement six days prior to expiration of Opposer’s trial period nor does Applicant dispute that a

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settlement agreement was executed by Opposer and sent to Applicant on October 16, 2015.¹

In view thereof and because this is the first suspension² for settlement sought by either party, pursuant to the Board's inherent authority, Opposer's motion to suspend is **granted**. Proceedings herein are suspended up to, and including **April 10, 2016**, subject to the right of either party to request resumption at any time. *See* Trademark Rules 2.117(c), and 2.127(a); and TBMP § 605.02.

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume without further notice or order from the Board, upon the schedule set forth below. In view of the Board's order herein, Applicant's motion to dismiss is moot.

Dates are reset as follows:

Proceedings Resume	4/10/2016
Plaintiff's 30-day Trial Period Ends	4/20/2016
Defendant's Pretrial Disclosures	5/5/2016
Defendant's 30-day Trial Period Ends	6/19/2016
Plaintiff's Rebuttal Disclosures	7/4/2016
Plaintiff's 15-day Rebuttal Period Ends	8/3/2016

¹ Applicant did not file a reply brief in support of its motion to dismiss.

² Any future motion to suspend must be accompanied by a detailed report on the progress of the parties' negotiations to establish good cause for any future suspension. Absent such a report, any future motion to suspend may not be approved, even though agreed to by the parties. *See* TBMP § 509.01(a).

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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. If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.