

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

Mailed: July 24, 2015

Cancellation No. 92060906

Oregano's Pizza Bistro, Inc.

v.

Joseph J. Bisogno

Ellen Yowell, Paralegal Specialist:

On July 23, 2015, Petitioner filed a consented motion to suspend proceedings for the parties to pursue settlement.

The motion to suspend indicates that the parties have not held the required discovery conference.¹ A review of the record shows that the deadline for the discovery conference is July 29, 2015, as set forth in the Board's order dated May 28, 2015. Additionally, Respondent filed an answer to the petition for cancellation on June 29, 2015.²

While the Board is liberal in granting extensions of time to accommodate settlement, after an answer has been filed, the Board is unlikely to find good cause for a motion, even upon consent or stipulation, to extend the deadline for the parties

¹ The Board notes that electronically generated trial schedule set forth in the motion does not include dates for the discovery conference, opening of discovery, and initial disclosures.

² Petitioner's appearance of counsel filed on June 9, 2015 is noted and the Board's record has been updated accordingly.

to conduct the required discovery conference when the basis for the motion is the existence of settlement discussions. *See* TBMP § 509.01(a); *Boston Red Sox Baseball Club LP v. Chaveriat*, 87 USPQ2d 1767, 1767 n.1 (TTAB 2008) (“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 motion to suspend was filed after the answer, but prior to the parties’ discovery conference, the Board does not find good cause to suspend. Accordingly, said motion is **DENIED**. The parties are expected to proceed to conduct the required discovery conference without delay.

Disclosure, discovery and trial dates remain as previously set in the Board’s order of May 28, 2015.

To the extent that the parties may file a revised consented motion to suspend or extend for settlement after the discovery conference has been held, the parties are advised that they may not use the ESTTA “consent motions” forms when the next period to close is the deadline for initial disclosure. Any motion to extend or suspend when the next period to close is the deadline for 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.