

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Taylor

Mailed: September 26, 2002

Opposition No. 91117612

PC Club

v.

Eastern Software
Corporation

Before Hairston, Bucher and Rogers,
Administrative Trademark Judges.

By the Board:

On May 7, 2001, the Board issued an order that, among other things, suspended these proceedings to allow the parties an opportunity to negotiate towards a settlement of this matter. Applicant, on March 7, 2002, filed a motion to enforce a purported settlement agreement between the parties. This case now comes up for consideration of that motion; and (2) opposer's motion (filed April 5, 2002) to resume these proceedings.¹

Applicant's motion to enforce a settlement agreement between the parties is denied, inasmuch as the Board has no jurisdiction to enforce such an agreement. See TBMP § 605.03(d). Applicant's remedy is by way of civil action.

¹ Opposer captioned its motion as a request to reopen proceedings. To prevent confusion, we will refer to opposer's motion as one to resume.

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Turning now to opposer's motion to resume, opposer requests the Board to lift the stay of proceedings because the parties are unable to resolve the matter amicably. Opposer further requests that the Board reset the discovery period to close 120 days after the Board's ruling on the motion.

In response, applicant argues that opposer's motion is untimely, inasmuch as a potentially dispositive motion is pending before the Board. Applicant further argues that opposer will not be prejudiced in any manner by delaying a request to reopen until the resolution of the outstanding motion to enforce.

While applicant is correct in its assertion that the Board will suspend a proceeding pending disposition of a potentially dispositive motion, the Board had not suspended this case for purposes of deciding applicant's motion to enforce at the time opposer filed its motion to resume. At the time of applicant's filing, these proceedings were suspended so that the parties could negotiate towards settlement. Nonetheless, by this order we have denied applicant's motion to enforce.

Inasmuch as these proceedings were suspended for purposes of settlement negotiations, and because either party has the right to request resumption at any time during the suspension period, opposer's motion to resume is

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granted. See *MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 USPQ 952 (TTAB 1979). Accordingly, discovery and trial dates are reset as indicated below.

THE PERIOD FOR DISCOVERY TO CLOSE: January 31, 2003

30-day testimony period for party in position of plaintiff to close: May 1, 2003

30-day testimony period for party in position of defendant to close: June 30, 2003

15-day rebuttal testimony period for plaintiff to close: August 14, 2003

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.