

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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January 29, 2019

Opposition No. 91218264

*Fishman Transducers, Inc.*

*v.*

*MUSIC Tribe Global Brands*

**M. Catherine Faint,  
Interlocutory Attorney:**

The notice of opposition alleging likelihood of confusion pursuant to Trademark Act § 2(d) was filed September 10, 2014. This proceeding has been the subject of extensions and suspensions since that period for, inter alia, inability to complete discovery during the assigned period, settlement negotiations, and most recently pending the disposition before the Board of Opposition No. 91216808 which was in the trial phase. However, on January 15, 2019, that opposition, involving a different plaintiff from this opposition, was suspended for disposition of a civil action between the unrelated plaintiff and Applicant.

Suspension of a Board proceeding pending the final determination of another proceeding is solely within the discretion of the Board. *New Orleans, La. Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011). Typically, separate oppositions or cancellations against the same application or registration proceed

simultaneously. *Id.* The Board will seldom grant a motion to suspend a proceeding pending disposition of Board proceedings brought by unrelated plaintiffs against the same application or registration, absent the consent of the other parties in order to avoid potential prejudice to those who did not consent to suspension. *Id.*<sup>1</sup>

In view thereof, the parties' motion to suspend pending disposition of Opposition No. 91216808 is **denied**.

Proceedings are resumed. Dates are reset as set out below.

Expert Disclosures Due	3/3/2019
Discovery Closes	4/2/2019
Plaintiff's Pretrial Disclosures Due	5/17/2019
Plaintiff's 30-day Trial Period Ends	7/1/2019
Defendant's Pretrial Disclosures Due	7/16/2019
Defendant's 30-day Trial Period Ends	8/30/2019
Plaintiff's Rebuttal Disclosures Due	9/14/2019
Plaintiff's 15-day Rebuttal Period Ends	10/14/2019
Plaintiff's Opening Brief Due	12/13/2019
Defendant's Brief Due	1/12/2020
Plaintiff's Reply Brief Due	1/27/2020
Request for Oral Hearing (optional) Due	2/6/2020

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the

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<sup>1</sup> The parties should be aware that any amendments to, or voluntary abandonment of, the opposed application must be made with the consent of all opposers, even those involved in the unrelated action. *Id.* See Trademark Rules 2.133(a) and 2.135.

manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

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