

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

mbm/gcp

Mailed: November 10, 2016

Opposition No. 91218590

Nemeco

v.

Tropic Sol Inc.

George C. Pologeorgis,
Administrative Trademark Judge:

Applicant's consented motion to extend, filed October 5, 2016, is **GRANTED**. See Trademark Rule 2.127(a).

Accordingly, remaining trial dates are reset as follows:

Plaintiff's Pretrial Disclosures Due	12/13/2016
Plaintiff's 30-day Trial Period Ends	1/27/2017
Defendant's Pretrial Disclosures Due	2/11/2017
Defendant's 30-day Trial Period Ends	3/28/2017
Plaintiff's Rebuttal Disclosures Due	4/12/2017
Plaintiff's 15-day Rebuttal Period Ends	5/12/2017

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.

As a final matter, the Board notes that since September 2015, the parties have effected numerous stipulations to extend trial dates to accommodate the parties' settlement negotiations, yet settlement has still not been reached. Accordingly, if the parties agree to another extension or suspension for settlement, they will be expected to report to the Board on the progress of their settlement negotiations. Such report **must** include (1) a recitation of issues that have been resolved; (2) identification of the settlement activities which have occurred **for each month since September 2015**, including (i) all dates on which the parties communicated, and the method of each communication (*e.g.* telephone, email, in person meeting), and (ii) the general nature of each communication;¹ (3) issues that remain to be resolved; and (4) a firm timetable for resolution. Absent such a report, any future motion to extend or suspend, even though agreed to by the parties, **will not be granted**.

NOTICE: CHANGES TO THE TRADEMARK TRIAL AND APPEAL BOARD ("BOARD") RULES OF PRACTICE WILL BE EFFECTIVE JANUARY 14, 2017

The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7 2016, at 81 F.R. 69950. It sets forth **several** amendments to the rules that govern *inter partes* (oppositions, cancellations, concurrent use) and ex parte appeal proceedings.

For complete information, the parties are referred to:

- The Board's home page on the uspto.gov website:
<http://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board-ttab>

¹ If no settlement activity has occurred for any month of extension for settlement since September 2015, the parties must explain why no settlement activity occurred.

- The final rule:
<http://www.uspto.gov/sites/default/files/documents/81%20FR%2069950.pdf>
- A chart summarizing the affected rules and changes:
http://www.uspto.gov/sites/default/files/documents/RulesChart_01_14_17.pdf

For **all** proceedings, including those **already in progress on January 14, 2017**,

some of the changes are:

- All pleadings and submissions must be filed through ESTTA. Trademark Rules 2.101, 2.102, 2.106, 2.111, 2.114, 2.121, 2.123, 2.126, 2.190 and 2.191.
- Service of all papers must be by email, unless otherwise stipulated. Trademark Rule 2.119.
- Response periods are no longer extended by five days for service by mail. Trademark Rule 2.119.
- Deadlines for submissions to the Board that are initiated by a date of service are 20 days. Trademark Rule 2.119. Responses to motions for summary judgment remain 30 days. Similarly, deadlines for responses to discovery requests remain 30 days.
- All discovery requests must be served early enough to allow for responses prior to the close of discovery. Trademark Rule 2.120. Duty to supplement discovery responses will continue after the close of discovery.
- Motions to compel initial disclosures must be filed within 30 days after the deadline for serving initial disclosures. Trademark Rule 2.120.
- Motions to compel discovery, motions to test the sufficiency of responses to admission requests or objections thereto, and motions for summary judgment must be filed prior to the first pretrial disclosure deadline. Trademark Rules 2.120 and 2.127.
- Requests for production and requests for admission, as well as interrogatories, are each limited to 75. Trademark Rule 2.120.
- Testimony may be submitted in the form of an affidavit or declaration. Trademark Rules 2.121, 2.123 and 2.125
- New requirements for the submission of trial evidence and deposition transcripts. Trademark Rules 2.122, 2.123, and 2.125.
- For proceedings **filed on or after January 14, 2017**, in addition to the changes set forth above, the Board's notice of institution constitutes service of complaints. Trademark Rules 2.101 and 2.111.

This is only a summary of the significant content of the Final Rule. All parties involved in or contemplating filing a Board proceeding, regardless of the date of commencement of the proceeding, should read the entire Final Rule.