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

VV

`Mailed: November 26, 2014

Opposition No. 91218632

Clontech Laboratories, Inc.

v.

MERCK KGAA

Eric McWilliams, Supervisory Paralegal:

On October 1, 2014, opposer served its notice of opposition. In response, applicant filed a motion to dismiss on October 7, 2014. On October 27, 2014, opposer filed an amended notice of opposition.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107; TBMP § 507.01.

Inasmuch as the amended pleading was filed within 21 days after service of applicant's Fed. R. Civ. P.12(b)(6) motion, the amended notice of opposition is accepted, and is now the operative pleading.

Because the new notice of opposition is operative, the Board will give no consideration to the motion to dismiss the original pleading.

Applicant is allowed until December 24, 2014 in which to file an answer to the amended notice of opposition.

Accordingly, amended answer due date, conferencing, discovery and trial dates are reset as follows:

Time to File Amended Answer	**12/24/2014**
Deadline for Discovery Conference	**1/23/2015**
Discovery Opens	**1/23/2015**
Initial Disclosures Due	**2/22/2015**
Expert Disclosures Due	**6/22/2015**
Discovery Closes	**7/22/2015**
Plaintiff's Pretrial Disclosures	**9/5/2015**
Plaintiff's 30-day Trial Period Ends	**10/20/2015**
Defendant's Pretrial Disclosures	**11/4/2015**
Defendant's 30-day Trial Period Ends	**12/19/2015**
Plaintiff's Rebuttal Disclosures	**1/3/2016**
Plaintiff's 15-day Rebuttal Period Ends	**2/2/2016**

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.l25. 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.l29.