

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: August 3, 2017

Opposition No. 91221493 (**Parent**)
Opposition No. 91223820
Opposition No. 91223821

Shaklee Corporation

v.

Mannatech, Incorporated

Katie W. McKnight,
Interlocutory Attorney:

Opposer's consented motion (filed July 28, 2017) to extend its time to respond to Applicant's combined response and cross-motion for summary judgment on Applicant's counterclaim for abandonment is **granted**. Trademark Rule 2.127(a).

Because Opposer's motion and Applicant's cross-motion are predicated on the common issue of abandonment, Opposer is allowed until **August 4, 2017** in which to file a combined opposition to Applicant's cross-motion and reply brief in support of its motion for summary judgment. Opposer's combined opposition and reply brief may not exceed twenty five pages in length in its entirety, including table of contents, index of cases, description of the record, statement of the issues, recitation of the facts, argument, and summary. Trademark Rule 2.127(a).

In turn, Applicant's reply brief in support of its cross-motion for summary judgment must be filed in accordance with Trademark Rule 2.127(e) and may not exceed ten pages in length.

Proceedings otherwise remain **suspended** pending the disposition of Opposer's motion for summary judgment and Applicant's cross-motion for summary judgment.

Recent Rules Change

CHANGES TO THE TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE BECAME EFFECTIVE JANUARY 14, 2017

The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7, 2016, at 81 Fed. Reg. 69950. It sets forth several amendments to the rules that govern *inter partes* (oppositions, cancellations, concurrent use) and *ex parte* appeal proceedings. A correction to the final rule was published on December 12, 2016, at 81 Fed. Reg. 89382.

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>
- The final rule:
<http://www.uspto.gov/sites/default/files/documents/81%20FR%2069950.pdf>
- The correction to the final rule:
<http://www.uspto.gov/sites/default/files/documents/81%20FR%2089382.pdf>
- A chart summarizing the affected rules and changes:
<http://www.uspto.gov/sites/default/files/documents/Chart%20Summarizing%20Rule%20Changes%2012-9-16.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 made by email, unless otherwise stipulated. Trademark Rule 2.119.

- Response periods are no longer extended by five days for service by first-class mail, Priority Mail Express®, or overnight courier. 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 or objections, 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.

This is only a summary of the significant content of the Final Rule. All parties involved in a Board proceeding should read the entire Final Rule.