

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: February 6, 2017

Opposition No. 91222153

Arcor S.A.I.C.

v.

“ROT FRONT” Open-Type Joint Stock Co.

Geoffrey M. McNutt, Interlocutory Attorney:

On December 14, 2016, the parties filed an amended stipulation to proceed under the Board’s Accelerated Case Resolution (“ACR”) pursuant to the following terms:

1. The Board may resolve any disputed issues of material fact in making a final determination on the merits.
2. The parties will not conduct discovery.
3. The parties waive pre-trial disclosures.
4. The parties will submit their evidence and briefs at the same time as if proceeding on summary judgment.
5. The parties may offer into evidence testimony by declaration or affidavit, including testimony by expert witnesses.
6. The parties reserve the right to object to the admissibility of evidence offered by declaration or affidavit on any grounds available under the Federal Rules of Evidence, provide that such objections are made within fourteen

days from the service of a declaration or affidavit containing the evidence being objected to by the party.

7. Opposer has standing to bring this opposition.

8. Evidence may be marked as “Confidential” or “Attorney’s Eyes Only” and such marked evidence (and any briefs containing such evidence) shall be handled pursuant to the Board’s standard protective order which is deemed to be entered in this case.

9. The parties will forego an oral hearing.

The parties also stipulated to certain facts.¹ *See* Stipulation ¶¶ 11–19 (19 TTABVUE 3–4). Additionally, the parties stipulated that the issues in contention in this proceeding are the likelihood of confusion between Opposer’s and Applicant’s marks and whether the terms “BON BON” or “BONBON” are merely descriptive in connection with confectionery. *Id.* (19 TTABVUE 4). Finally, the parties set forth a trial schedule to follow under the ACR procedure. *Id.*

Because the parties agree that the Board may resolve disputes as to material facts which the Board may find to exist,² and may issue a final ruling after considering the parties’ ACR briefs, the parties’ stipulation is hereby **APPROVED**. Briefs and supporting evidence are due in accordance with the schedule set forth in the parties’ stipulation.

¹ The parties further agreed that their stipulations of facts are being made for the purposes of the instant Opposition proceeding only and will not operate as admissions outside of the Opposition context. Stipulation ¶ 2 (19 TTABVUE 2).

² The Board may decide any issues not anticipated by the parties but which the Board may find the record to present.

The Board will expedite determination of this matter and render a final decision in accordance with the evidentiary burden at trial, that is, by preponderance of the evidence. *See* TBMP Section 702.04(a). The Board will endeavor to issue a decision on the merits within 50 days following the completion of ACR briefing. *Id.* The decision shall be judicially reviewable under 37 C.F.R. § 2.145.