

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: May 23, 2017

Opposition No. 91228289

*Padraic C. McFreen*

*v.*

*Mitac International Corp.*

**Jennifer Krisp, Interlocutory Attorney:**

The Board notes the notice of appearance of counsel, Michael D. Stewart, on behalf of Opposer in this proceeding.<sup>1</sup> The Board's record for this proceeding has been updated.

The Board also notes Opposer's "Motion in Opposition" filed May 23, 2017,<sup>2</sup> wherein Opposer references "Applicant's Objection to Suspension," which is an unclear reference in view of the overall brief and unclear nature of Opposer's filing.

1) To the extent that "Applicant's Objection to Suspension" refers to Applicant's April 14, 2017 brief<sup>3</sup> in opposition to Opposer's March 30, 2017<sup>4</sup> communication, that

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<sup>1</sup> 16 TTABVUE. When referring to the record in an *inter partes* proceeding, the parties are to reference material in the record by citation to the Board's TTABVUE docket electronic database by the entry and page number, e.g., 1 TTABVUE 2. See TBMP § 801.01 (Jan. 2017); *Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014).

<sup>2</sup> 17 TTABVUE.

<sup>3</sup> 13 TTABVUE.

<sup>4</sup> 11 TTABVUE.

communication was formerly fully briefed, including Opposer’s reply brief filed on April 17, 2017 which the Board considered on April 24, 2017<sup>5</sup> in adjudicating the merits of Opposer’s March 30, 2017 communication. Applicant’s April 14, 2017 brief is not now moot.

2) To the extent that “Applicant’s Objection to Suspension” refers to Applicant’s February 8, 2017 brief<sup>6</sup> in opposition to Opposer’s January 24, 2017<sup>7</sup> motion to suspend discovery and trial dates for six months, the Board, in its March 3, 2017 order, denied Opposer’s January 24, 2017 motion to suspend.<sup>8</sup> Applicant’s February 8, 2017 brief is not now moot.

Lastly, Opposer’s request “that the proceedings resume”<sup>9</sup> is procedurally improper. The Board, in its April 24, 2017 (most recent) order, established a May 18, 2017 resumption date.<sup>10</sup>

Discovery and trial dates remain as reset in the Board’s April 24, 2017 order:<sup>11</sup>

Expert Disclosures due	<b>6/9/2017</b>
Discovery Closes	<b>7/9/2017</b>
Plaintiff’s Pretrial Disclosures due	<b>8/23/2017</b>
Plaintiff’s 30-day Trial Period Ends	<b>10/7/2017</b>
Defendant’s Pretrial Disclosures due	<b>10/22/2017</b>
Defendant’s 30-day Trial Period Ends	<b>12/6/2017</b>
Plaintiff’s Rebuttal Disclosures due	<b>12/21/2017</b>
Plaintiff’s 15-day Rebuttal Period Ends	<b>1/20/2018</b>

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<sup>5</sup> 15 TTABVUE.

<sup>6</sup> 9 TTABVUE.

<sup>7</sup> 8 TTABVUE.

<sup>8</sup> 10 TTABVUE 2-3.

<sup>9</sup> 17 TTABVUE 2.

<sup>10</sup> 15 TTABVUE. Thus, the resumption date had already passed when Opposer filed his May 23, 2017 “Motion in Opposition.”

<sup>11</sup> 15 TTABVUE 4.

Generally, the Federal Rules of Evidence, Federal Rules of Civil Procedure and Trademark Rules of Practice 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, matters in evidence, the manner and timing of taking testimony, 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).