

ESTTA Tracking number: **ESTTA1022519**

Filing date: **12/13/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91232286
Party	Plaintiff Senseonics, Incorporated
Correspondence Address	RJ HEHER FENWICK & WEST LLP SILICON VALLEY CENTER, 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041 UNITED STATES trademarks@fenwick.com, rjheher@fenwick.com 650-988-8500
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	R.J. Heher, Esq.
Filer's email	trademarks@fenwick.com, rjheher@fenwick.com, jdueck@fenwick.com, t.meiss@evosense.de, h.diers@evosense.de
Signature	/R.J. Heher/
Date	12/13/2019
Attachments	EVOSENSE Motion for Suspension with Consent.pdf(305533 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of
Trademark Application Serial No. 86/845,324
Mark: EVOSENSE

Senseonics, Incorporated)	
Opposer,)	
vs.)	Opposition No. 91232286
)	
EvoSense Research & Development GmbH)	
)	
Applicant.)	
)	

MOTION FOR SUSPENSION WITH CONSENT

Opposer Senseonics, Incorporated (“Opposer”), with the consent of Applicant EvoSense Research & Development GmbH (“Applicant”), requests further suspension of the Opposition for 90 days and that all trial dates be reset accordingly, on the grounds that the parties are engaged in settlement discussions. Pursuant to the Board’s Order dated September 4, 2019, Opposer provides the following status report showing good cause and setting forth the specific efforts that the parties have made towards settlement during the previous periods of suspension, along with a proposed reset trial schedule.

1. The parties have been engaged in productive settlement discussions, and believe that they are close to reaching a final settlement. The parties have been primarily negotiating amendments to Applicant’s identification of services in Trademark Application Serial No. 86/845,324 (the “Application”).

2. As of their most recent substantive correspondence on December 11, 2019, Applicant has tentatively agreed in principle to the settlement terms proposed by Opposer, but Applicant needs to obtain the approval of others in Applicant's company regarding the scope of the amendments to Applicant's identification of services and the final settlement agreement. The parties only need to finalize the scope of the amendment to the identification of services and the final settlement documentation.

3. On May 21, 2018, Applicant sent an email to Opposer's counsel, providing its proposed amendment to the identification of services and a draft settlement agreement.

4. On December 3, 2018, Applicant sent an email to Opposer's counsel, regarding Applicant's settlement proposal with a modification to its proposed amendment to the identification of services.

5. On May 30, 2019, Opposer's counsel indicated in an email to Applicant that Opposer continued to find some of the terms in Applicant's settlement proposal unacceptable and provided a counterproposal primarily relating to amendments to the identification of services in the Application and to making the settlement terms reciprocal.

6. On August 18, 2019, Applicant agreed in principle to the terms proposed by Opposer's counsel on May 30, 2019.

7. On December 6, 2019, Opposer's counsel sent an email to Applicant, regarding Applicant's settlement proposal with a modification to its proposed amendment to the identification of services.

8. The only remaining issue in the settlement is that Applicant needs to obtain the approval of others in the company regarding the scope of the amendments to Applicant's identification of services and the final settlement agreement. The parties believe that a 90-day suspension of the Opposition will further the parties' ability to reach a final settlement.

9. The parties propose the following reset schedule:

Discovery Closes	March 13, 2020
Plaintiff's Pretrial Disclosures Due	April 27, 2020
Plaintiff's 30-day Trial Period Ends	June 11, 2020
Defendant's Pretrial Disclosures Due	June 26, 2020
Defendant's 30-day Trial Period Ends	August 10, 2020
Plaintiff's Rebuttal Disclosures Due	August 25, 2020
Plaintiff's 15-day Rebuttal Period Ends	September 24, 2020
Plaintiff's Opening Brief Due	November 23, 2020
Defendant's Brief Due	December 23, 2020
Plaintiff's Reply Brief Due	January 7, 2021
Request for Oral Hearing (optional) Due	January 17, 2021

WHEREFORE, in view of the foregoing, Opposer respectfully asks that the Board grant the Motion to Suspend with Consent for 90 days and reset disclosure, discovery and trial dates accordingly.

Dated: December 13, 2019

Respectfully submitted,

By: /R.J. Heher/
R.J. Heher
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Telephone: 650.988.8500

Attorney for Opposer
Senseonics, Incorporated

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION FOR SUSPENSION WITH CONSENT** was served this 13th day of December, 2019, by email on Applicant herein at: t.meiss@evosense.de, as required by the Trademark Trial and Appeal Board.

/Jodi Dueck/

Jodi Dueck, Senior Paralegal