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

CME/am

Mailed: October 4, 2017

Opposition No. 91233046 (parent)

Mediderm Laboratories, LLC

v.

Sesderma, S.L.

Cancellation No. 92062648

Sesderma, S.L.

v.

Mediderm Laboratories, LLC

Christen M. English, Interlocutory Attorney:

On August 4, 2017, Sesderma S.L. filed a motion for summary judgment on the claims of priority and likelihood of confusion in the above-captioned proceedings. On September 5, 2017, Mediderm Laboratories, LLC filed an opposition to Sesderma's motion for summary judgment[1] (10 TTABVUE) and a separate cross-motion for summary judgment on the claims of priority and likelihood of confusion (11 TTABVUE).

[1] Mediderm's opposition brief also includes a request that the Board consolidate the above-captioned cases with Cancellation No. 92065851. 10 TTABVUE 4-5.

Mediderm's cross-motion is substantially identical to the first twelve pages of Mediderm's brief in opposition to Sesderma's motion for summary judgment, and relies on the same evidence. Because Mediderm's cross-motion for summary judgment is subsumed within Mediderm's opposition brief, the Board construes Mediderm's opposition brief as a combined opposition and cross-motion and will give no further consideration to Mediderm's separate cross-motion at 11 TTABVUE.[2] Accordingly, Sesderma's motion, filed September 25, 2017, for an extension of time to file a response to Mediderm's cross-motion at 11 TTABVUE is moot and will be given no further consideration.[3]

The Board further construes Sesderma's brief, filed September 25, 2017, as a combined reply in support of Sesderma's motion for summary judgment and opposition to Mediderm's construed cross-motion for summary judgment. A reply brief, if filed in support of Mediderm's construed cross-motion, is due in accordance with Trademark Rule 2.127(e) ("The time for filing a reply brief will not be extended or reopened.").

In addition to the foregoing, on September 25, 2017, Sesderma filed a motion seeking "leave … to address" Mediderm's requests for admission asserting that "it would be unfair to deem" the requests admitted because Sesderma never received them. 12 TTABVUE 3. The Board construes this submission as a motion to withdraw

[2] The parties are reminded to refrain from making duplicative filings that unnecessarily tax the Board's resources.

[3] Because the arguments in Mediderm's cross-motion are duplicative of the arguments in its opposition brief, Sesderma had ample opportunity to respond to such arguments in its combined response and reply brief, filed September 25, 2017.

admissions under Fed. R. Civ. P. 36(b), which is germane to the pending cross-motions for summary judgment. TBMP § 528.03. Sesderma is allowed until October 22, 2017 to file, in support of its construed motion, proposed amended responses to Mediderm's requests for admission. Mediderm is allowed until November 11, 2017 to file a brief in opposition to Sesderma's construed motion under Fed. R. Civ. P. 36(b). A reply brief, if filed in support of Sesderma's construed motion under Fed. R. Civ. P. 36(b), is due in accordance with Trademark Rule 2.127(a).

Proceedings otherwise remain suspended.

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