

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: September 12, 2017

Opposition No. 91235601

*Gluten Free Classes, LLC*

*v.*

*JHMJLL Inc.*

**M. Catherine Faint,  
Interlocutory Attorney:**

On August 23, 2017, Applicant filed, in lieu of an answer, a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Opposer filed on August 29, 2017, an amended notice of opposition and response in opposition to the motion to dismiss.

*Motion to Dismiss*

A plaintiff to an inter partes proceeding before the Board may amend its complaint within twenty-one (21) days after service of a motion under Fed. R. Civ. P. 12(b)(6), or with the court's leave. Fed. R. Civ. P. 15(a). Opposer filed its amended pleading within the timeframe for response to the motion to dismiss. Applicant's motion to dismiss, inasmuch as it was based on the original complaint, is now moot. *Fair Indigo LLC v. Style Conscience*, 85 USPQ2d 1536, 1537 (TTAB 2007) (filing of amended complaint renders motion

to dismiss moot). Accordingly, Applicant's motion to dismiss, and Opposer's response thereto, will be given no further consideration.

Applicant has until the date set forth below to file an answer to the amended notice of opposition.

*Dates Reset*

Dates are reset as set out below.

Time to Answer	10/10/2017
Deadline for Discovery Conference	11/9/2017
Discovery Opens	11/9/2017
Initial Disclosures Due	12/9/2017
Expert Disclosures Due	4/8/2018
Discovery Closes	5/8/2018
Plaintiff's Pretrial Disclosures Due	6/22/2018
Plaintiff's 30-day Trial Period Ends	8/6/2018
Defendant's Pretrial Disclosures Due	8/21/2018
Defendant's 30-day Trial Period Ends	10/5/2018
Plaintiff's Rebuttal Disclosures Due	10/20/2018
Plaintiff's 15-day Rebuttal Period Ends	11/19/2018
Plaintiff's Opening Brief Due	1/18/2019
Defendant's Brief Due	2/17/2019
Plaintiff's Reply Brief Due	3/4/2019
Request for Oral Hearing (optional) Due	3/14/2019

Generally, the Federal Rules of Evidence 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, the manner and timing of taking testimony,

matters in evidence, 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).

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