

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
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July 29, 2019

Opposition No. 91239143

*W-D Apparel Company, LLC*

*v.*

*L2 Apparel Group LLC*

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

Applicant's motion, filed July 1, 2019, to extend disclosure, discovery, and trial dates is granted as conceded.<sup>1</sup> Trademark Rule 2.127(a).

Trial dates are reset in accordance with Applicant's motion.

The Board notes that Applicant used the "consent motion to extend" form from ESTTA, but the motion was not consented as noted at the end of the motion. Applicant should not use this form for an unconsented motion, but should instead draft its own motion to upload in ESTTA.

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<sup>1</sup> When parties stipulate to the rescheduling of a deadline for pretrial disclosures and subsequent testimony periods or to the rescheduling of the closing date for discovery and the rescheduling of subsequent deadlines for pretrial disclosures and testimony periods, a stipulation presented in the form used in a trial order, signed by the parties, or a motion in said form signed by one party and including a statement that every other party has agreed thereto, shall be submitted to the Board through ESTTA, with the relevant dates set forth and an express statement that all parties agree to the new dates. Trademark Rule 2.121(d).

This proceeding was instituted on January 26, 2018 and has been subject to extension requests since October 28, 2018, almost two years. **Further extensions or suspensions are unlikely to be granted** in the absence of a detailed report reciting what progress the parties have made toward resolving this matter. Such report **MUST** include: a recitation of the issues that have been resolved, a recitation of the issues that remain to be resolved and, a firm timetable for resolution. Failing which, any future motions may not be approved, even though agreed to by the parties.

Dates are reset as set out below.

Expert Disclosures Due	7/31/2019
Discovery Closes	8/30/2019
Plaintiff's Pretrial Disclosures Due	10/14/2019
Plaintiff's 30-day Trial Period Ends	11/28/2019
Defendant's Pretrial Disclosures Due	12/13/2019
Defendant's 30-day Trial Period Ends	1/27/2020
Plaintiff's Rebuttal Disclosures Due	2/11/2020
Plaintiff's 15-day Rebuttal Period Ends	3/12/2020
Plaintiff's Opening Brief Due	5/11/2020
Defendant's Brief Due	6/10/2020
Plaintiff's Reply Brief Due	6/25/2020
Request for Oral Hearing (optional) Due	7/5/2020

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).