

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
General Email: TTABInfo@uspto.gov

February 11, 2021

Opposition No. 91239466

Edible Arrangements, LLC

v.

Provide Commerce, Inc.

Nicole Thier, Paralegal Specialist:

On December 19, 2020, the Board allowed the parties thirty days to inform the Board on the status of the bankruptcy case which occasioned the suspension of this proceeding.

Inasmuch as no response has been received by the Board, proceedings are herein resumed and trial dates are reset as follows:

Deadline for Discovery Conference	March 13, 2021
Discovery Opens	March 13, 2021
Initial Disclosures Due	April 12, 2021
Expert Disclosures Due	August 10, 2021
Discovery Closes	September 9, 2021
Plaintiff's Pretrial Disclosures	October 24, 2021
30-day testimony period for plaintiff's testimony to close	December 8, 2021
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	December 23, 2021
30-day testimony period for defendant and plaintiff in the counterclaim to close	February 6, 2022

Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	February 21, 2022
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	April 7, 2022
Counterclaim Plaintiff's Rebuttal Disclosures Due	April 22, 2022
15-day rebuttal period for plaintiff in the counterclaim to close	May 22, 2022
Brief for plaintiff due	July 21, 2022
Brief for defendant and plaintiff in the counterclaim due	August 20, 2022
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	September 19, 2022
Reply brief, if any, for plaintiff in the counterclaim due	October 4, 2022

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, 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).

TIPS FOR FILING EVIDENCE, TESTIMONY, OR LARGE DOCUMENTS

The Board requires each submission to meet the following criteria before it will be considered: 1) pages must be legible and easily read on a computer screen; 2) page orientation should be determined by its ease of viewing relevant text or evidence, for example, there should be no sideways or upside-down pages; 3) pages must appear in their proper order; 4) depositions and exhibits must be clearly labeled and numbered – use separator pages between exhibits and clearly label each exhibit using sequential letters or numbers; and 5) the entire submission should be text-searchable. Additionally, submissions must be compliant with Trademark Rules 2.119 and 2.126. Submissions failing to meet all of the criteria above may require re-filing. **Note:** Parties are strongly encouraged to check the entire document before filing.¹ The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

¹ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.