

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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July 26, 2019

Opposition No. 91241866

Credit Sesame, Inc.

v.

Alibaba Group Holding Limited

Veronica P. White, Paralegal Specialist:

Applicant's consented motion, filed July 19, 2019, to further extend its time to file an answer to the notice of opposition, and to extend conference, disclosure, discovery and trial dates, is granted.¹ Trademark Rule 2.127(a).

Answer is due **September 22, 2019**. An answer must be filed through ESTTA, the Board's Electronic System for Trademark Trials and Appeals. *See* Trademark Rule 2.106(b)(1)/2.114(b)(1).

The conference, disclosure, discovery and trial dates are reset as follows:

Deadline for Discovery Conference	10/22/2019
Discovery Opens	10/22/2019
Initial Disclosures Due	11/21/2019

¹ 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).

Expert Disclosures Due	3/20/2020
Discovery Closes	4/19/2020
Plaintiff's Pretrial Disclosures Due	6/3/2020
Plaintiff's 30-day Trial Period Ends	7/18/2020
Defendant's Pretrial Disclosures Due	8/2/2020
Defendant's 30-day Trial Period Ends	9/16/2020
Plaintiff's Rebuttal Disclosures Due	10/1/2020
Plaintiff's 15-day Rebuttal Period Ends	10/31/2020
Plaintiff's Opening Brief Due	12/30/2020
Defendant's Brief Due	1/29/2021
Plaintiff's Reply Brief Due	2/13/2021
Request for Oral Hearing (optional) Due	2/23/2021

Status Report Required for Future Motions to Extend or Suspend for Settlement

The Board has granted numerous motions to extend to accommodate the parties' settlement efforts. In view of the amount of time already granted, any prospective motion to extend, suspend, or reopen, based on settlement, must establish good cause by way of a **detailed report** setting forth what progress the parties have made towards settlement during the previously granted period of extension or suspension. This report must set forth, at a minimum, **1) all dates on which the parties communicated, and the method of each communication (e.g. telephone, email, in-person meeting), 2) the general nature of each communication, 3) the issues that have been resolved, 4) the issues that remain to be resolved or that remain for trial, and 5) a proposed timetable for resolution of the unresolved issues.** Appropriately designated confidential information or materials may be filed under seal and will be barred from public viewing. *See* Trademark Rule 2.126(c); TBMP §§ 120.02 and 502.02(c).

Due to this requirement, the parties may no longer use the ESTTA "Consent Motions" forms to submit motions to extend or suspend dates for settlement. Rather, the parties must select the "Opposition, Cancellation or Concurrent Use (general filings)" option, then the "Scheduling Motions" option in ESTTA, and attach the motion they prepared. The motion must set forth both the required status report and a proposed trial schedule.² The requirement to use the general filings ESTTA form is limited to consent motions based on settlement discussions, and does not prohibit the use of ESTTA consent forms for other filings. Absent the required status report, a motion to extend or suspend may be denied, even if consented to by the parties. If the Board denies such a motion, dates may remain as previously set. See TBMP § 509.01(a).

Other Information

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

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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).