

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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CME/vw

February 18, 2019

Opposition No. 91242785

*Overland Storage, Inc. and Tandberg Data  
Holdings S.a.r.l.*

*v.*

*Cisco Technology, Inc. (by way of assignment)*

Christen M. English, Interlocutory Attorney:

On February 7, 2019, Applicant filed a consented motion to suspend this proceeding for sixty days and a combined consented motion to substitute Cisco Technology, Inc. (“Cisco”) as party defendant and to enter an appearance of counsel for Cisco.

### **Motion to Substitute**

On November 1, 2018, Tandberg AS Cisco Technology, Inc. assigned the involved application to Cisco. The assignment is recorded at Reel/Frame: 6491/0176. Because Opposers “consent to and raise no objection to the proposed substitution” the motion is **granted** and Cisco is substituted as party defendant.

### **Entry of Appearance**

The entry of appearance of counsel for Cisco is noted and the Board’s records have been updated accordingly.

**Motion to Suspend**

Applicant’s consented motion to suspend for settlement is **granted**. Proceedings are suspended for **sixty days** subject to the right of either party to request resumption at any time.<sup>1</sup> See Trademark Rules 2.117(c) and 2.127(a); and TBMP § 605.02. If there is no word from either party concerning the progress of their negotiations, when the suspension period ends, proceedings will resume without further notice or order from the Board on the schedule below:<sup>2</sup>

Initial Disclosures Due	4/9/2019
Expert Disclosures Due	8/7/2019
Discovery Closes	9/6/2019
Plaintiff’s Pretrial Disclosures Due	10/21/2019
Plaintiff’s 30-day Trial Period Ends	12/5/2019
Defendant’s Pretrial Disclosures Due	12/20/2019
Defendant’s 30-day Trial Period Ends	2/3/2020
Plaintiff’s Rebuttal Disclosures Due	2/18/2020
Plaintiff’s 15-day Rebuttal Period Ends	3/19/2020
Plaintiff’s Opening Brief Due	5/18/2020
Defendant’s Brief Due	6/17/2020
Plaintiff’s Reply Brief Due	7/2/2020
Request for Oral Hearing (optional) Due	7/12/2020

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

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<sup>1</sup> The parties should note that if proceedings are suspended for a lengthy period of time for settlement, the Board retains discretion to condition the approval of any future consented or stipulated motion to suspend on the parties providing necessary information about the status of settlement talks, discovery activities, or trial activities, as may be appropriate. Trademark Rule 2.117(c).

<sup>2</sup> During suspension, the parties must inform the Board of any changes to their correspondence address. Trademark Rule 2.18(b)(1).

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).