

ESTTA Tracking number: **ESTTA1040413**

Filing date: **03/06/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91244593
Party	Defendant JH Biotech, Inc.
Correspondence Address	RALPH D CHABOT LAW OFFICE OF RALPH D CHABOT 2310 E PONDEROSA DR, SUITE 4 CAMARILLO, CA 93010-4747 UNITED STATES rdc@chabotlaw.com 805-388-5028
Submission	Defendant's Notice of Taking Testimony
Filer's Name	Ralph D Chabot
Filer's email	rdc@chabotlaw.com
Signature	/rdc/
Date	03/06/2020
Attachments	Notice to Cross Examine.pdf(94967 bytes) Motion To Reset Remaining Trial Dates.pdf(94705 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

Mark: SEEDUP
Serial No. 87/953,971
Date of Filing: 06-08-2018

Cytozyme Laboratories, Inc.)	
)	
Opposer,)	Opposition No.: 91244593
)	
vs.)	
)	
JH Biotech, Inc.)	
)	
Applicant.)	
_____)	

NOTICE TO CROSS-EXAMINE (37 C.F.R. §2.123)

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(c) of the Trademark Rules of Practice and Rules 28 and 30 of the Federal Rules of Civil Procedure, Applicant JH Biotech, Inc. will take the oral cross examination of ERIC CHANDLER BAUGHMAN, on Tuesday, March 24, 2020, commencing at 10:00am MDT at the law offices located at 333 S. 520 W, Lindon, Utah 84042. The testimony so obtained may be used for all purposes permitted under the Trademark Rules, the Federal Rules of Evidence, and the Federal Rules of Civil Procedure.

By email dated February 28, 2020, counsel for Opposer has stipulated the cross-examination may be conducted by telephone.

/s/ Ralph D. Chabot

Ralph D. Chabot
Attorney for Applicant
JH Biotech, Inc.

Dated: March 6, 2020

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing:

NOTICE TO CROSS EXAMINE (37 C.F.R. §2.123)

has been served on Peter M. de Jonge of Thorpe North & Western, LLP, counsel for Opposer, by forwarding said copy on March 6, 2020 via email to: dejonge@tnw.com; jillaine.chaston@tnw.com; kaelynn.moultrie@tnw.com; aimee.kaderabek@tnw.com; litigation@tnw.com.

/s/ Ralph D. Chabot

Ralph D. Chabot
Attorney for Applicant
JH Biotech, Inc.

Date: March 6, 2020

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Cytozyme Laboratories, Inc.)	
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Opposer,)	Opposition No.: 91244593
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vs.)	
)	
JH Biotech, Inc.)	MOTION TO RESET REMAINING
)	TRIAL DATES AFTER CROSS-
)	EXAMINATION OF ERIC
Applicant.)	CHANDLER BAUGHMAN
_____)	

Notice of the cross-examination of Eric Chandler Baughman is being concurrently filed with the Board.

Applicant respectfully requests the Board to reset all remaining trial dates until after completion of the cross examination.

STATEMENT OF FACTS

Applicant was served with the declaration of Eric Chandler Baughman on the final day of its 30-day Trial Period, Monday, February 24, 2020.

On Wednesday, February 26, 2020, Applicant’s attorney emailed Opposer’s counsel to request Opposer stipulate that the deposition can be taken telephonically and, request a convenient time to schedule Mr. Baughman’s deposition.

Opposer's counsel has agreed in writing to a telephonic deposition.

ARGUMENT

Applicant has 20 calendar days from the date of service of Mr. Baughman's testimony declaration, to file a notice to cross-examine. (37 C.F.R. §2.123)

This Motion, and the notice to cross-examine Mr. Baughman have been filed with the Board within the 20 day period.

Applicant's Pretrial Disclosures are due March 9, 2020. Because Mr. Baughman's cross-examination will not be taken until March 24, 2020, and his testimony may have a bearing on what evidence Applicant intends to submit during its testimony period, Applicant requests the Board reset all remaining trial dates accordingly.

Respectfully submitted,

Date: March 6, 2020

/s/ Ralph D. Chabot

Ralph D. Chabot
Attorney for Applicant
JH Biotech, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing:

**MOTION TO RESET REMAINING TRIAL DATES AFTER CROSS-
EXAMINATION OF ERIC CHANDLER BAUGHMAN**

has been served on Peter M. de Jonge of Thorpe North & Western, LLP, counsel for Opposer, by forwarding said copy on March 6, 2020 via email to: dejonge@tnw.com; jillaine.chaston@tnw.com; kaelynn.moultrie@tnw.com; aimee.kaderabek@tnw.com; litigation@tnw.com.

/s/ Ralph D. Chabot

Ralph D. Chabot
Attorney for Applicant
JH Biotech, Inc.

Date: March 6, 2020