

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](mailto:TTABInfo@uspto.gov)

July 8, 2019

Opposition No. 91248187

*Sleep 8, Inc.*<sup>1</sup>

*v.*

*Advanced Sleep Technologies, LLC*

**Nicole Thier, Paralegal Specialist:**

On June 24, 2019, Applicant filed an answer to the notice of opposition and a counterclaim to cancel Opposer's pleaded Registration(s) No. 5740934 and 5639566. Applicant submitted the required fee.

Opposer and counterclaim defendant, Sleep 8, Inc., is allowed until August 17, 2019 to file an answer to the counterclaim. *See* Trademark Rule 2.106(b)(3)(iii).

In accordance with the Trademark Rules of Practice, the parties' obligation to hold their discovery conference by the deadline stated in the prior order is stayed, and conferencing, disclosure, discovery and trial periods are reset as indicated below. *See* Trademark Rule 2.121(b)(2).

Answer to Counterclaim Due  
Deadline for Discovery Conference  
Discovery Opens

August 17, 2019  
September 16, 2019  
September 16, 2019

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<sup>1</sup> Opposer's entity conversion filed with the Assignment Branch of the Office is noted and made of record. The assignment was recorded on June 5, 2019 and is viewable at Reel/Frame No. 6662/0449.

Initial Disclosures Due	October 16, 2019
Expert Disclosures Due	February 13, 2020
Discovery Closes	March 14, 2020
Plaintiff's Pretrial Disclosures	April 28, 2020
30-day testimony period for plaintiff's testimony to close	June 12, 2020
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	June 27, 2020
30-day testimony period for defendant and plaintiff in the counterclaim to close	August 11, 2020
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	August 26, 2020
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	October 10, 2020
Counterclaim Plaintiff's Rebuttal Disclosures Due	October 25, 2020
15-day rebuttal period for plaintiff in the counterclaim to close	November 24, 2020
Brief for plaintiff due	January 23, 2021
Brief for defendant and plaintiff in the counterclaim due	February 22, 2021
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	March 24, 2021
Reply brief, if any, for plaintiff in the counterclaim due	April 8, 2021

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. *See* Trademark Rule 2.121(d).

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).