

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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January 8, 2020

Opposition No. 91249278

*ChromaDex Inc.*

*v.*

*Carol Cole Company*

**Victoria von Vistauxx, Paralegal Specialist:**

Applicant/Counterclaim Plaintiff's consented motion, filed December 12, 2019, to suspend this proceeding for sixty days is granted.<sup>1</sup> Trademark Rule 2.127(a).

Because the parties are negotiating for a possible settlement of this case, proceedings are suspended, subject to the right of either party to request resumption at any time.<sup>2</sup> See Trademark Rules 2.117(c) and 2.127(a); and TBMP § 605.02.

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<sup>1</sup> 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).

<sup>2</sup> The parties should note that if proceedings are suspended for a lengthy period of time pursuant to the filing of several motions to suspend for settlement, the Board retains discretion to condition the approval of any future consented or stipulated motion to suspend on a party or the parties providing necessary information about the status of settlement talks, discovery activities, or trial activities, as may be appropriate. See Trademark Rule 2.117(c).

If, during the suspension period, either of the parties or their attorneys have a change of address or email address, the Board should be so informed. *See* Trademark Rule 2.18(b)(1).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, **proceedings shall resume without further notice or order from the Board**, in accordance with Applicant/Counterclaim Plaintiff's motion, as follows:

Initial Disclosures Due	2/14/2020
Expert Disclosures Due	6/13/2020
Discovery Closes	7/13/2020
Pretrial Disclosures Due for Party in Position of Plaintiff in Original Claim	8/27/2020
30-day Trial Period Ends for Party in Position of Plaintiff in Original Claim	10/11/2020
Pretrial Disclosures Due for Party in Position of Defendant in Original Claim and in Position of Plaintiff in Counterclaim	10/26/2020
30-day Trial Period Ends for Party in Position of Defendant in Original Claim, and in Position of Plaintiff in Counterclaim	12/10/2020
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Original Claim and in Position of Defendant in Counterclaim	12/25/2020
30-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Original Claim, and in Position of Defendant in Counterclaim	2/8/2021
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Counterclaim	2/23/2021
15-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Counterclaim	3/25/2021
Opening Brief for Party in Position of Plaintiff in Original Claim Due	5/24/2021
Combined Brief for Party in Position of Defendant in Original Claim and Opening Brief as Plaintiff in Counterclaim Due	6/23/2021
Combined Rebuttal Brief for Party in Position of Plaintiff in Original Claim and Brief as Defendant in Counterclaim Due	7/23/2021
Rebuttal Brief for Party in Position of Plaintiff in Counterclaim Due	8/7/2021
Request for Oral Hearing (optional) Due	8/17/2021

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.<sup>3</sup> The Board will not extend or reset proceeding schedule dates or other deadlines to allow

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<sup>3</sup> To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.

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time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.