

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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mbm/Bukrinsky

August 5, 2020

Opposition No. 91252225

Chanel, Inc.

v.

Kimberly Araca and Fernando Alicea

Mary Beth Myles, Interlocutory Attorney:

Applicant's unconsented motion to amend its application, filed June 8, 2020, does not include proof of service. Trademark Rule 2.119(a) states that every submission filed in an inter partes proceeding must be served upon the other party or parties, and proof of such service must be made before the submission will be considered. *See* TBMP § 113.02. Accordingly, the Board will give the motion to amend no consideration. Moreover, the Board notes that Opposer has not consented to the proposed amendment. The Board generally will defer determination of a timely filed unconsented motion to amend an involved application until final decision, or until the case is decided upon summary judgment. *See, e.g., Drive Trademark Holdings LLC v. Inofin*, 83 USPQ2d 1433 (TTAB 2007).

On July 7, 2020, Applicant filed a consented motion to suspend this proceeding for 60 days. As last reset, Applicant's answer to the notice of opposition was due June 21,

2020. The July 7, 2020 consented motion did not address the deadline for Applicant to file an answer. Inasmuch as no answer was filed, the motion is **granted, as modified below.**

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.¹ *See* Trademark Rules 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**, upon the schedule set forth below.

Proceedings Resume: **9/6/2020.**

Time to Answer	9/8/2020
Deadline for Discovery Conference	10/8/2020
Discovery Opens	10/8/2020
Initial Disclosures Due	11/7/2020
Expert Disclosures Due	3/7/2021
Discovery Closes	4/6/2021
Plaintiff's Pretrial Disclosures Due	5/21/2021
Plaintiff's 30-day Trial Period Ends	7/5/2021
Defendant's Pretrial Disclosures Due	7/20/2021
Defendant's 30-day Trial Period Ends	9/3/2021

¹ 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).

Plaintiff's Rebuttal Disclosures Due	9/18/2021
Plaintiff's 15-day Rebuttal Period Ends	10/18/2021
Plaintiff's Opening Brief Due	12/17/2021
Defendant's Brief Due	1/16/2022
Plaintiff's Reply Brief Due	1/31/2022
Request for Oral Hearing (optional) Due	2/10/2022

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).

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.² The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

² To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.