

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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Bukrinsky/mbm

October 26, 2020

Opposition No. 91256448

*General Mills IP Holdings II, LLC*

*v.*

*Stocking-Plus, L.L.C.*

**Mary Beth Myles, Interlocutory Attorney:**

The Board notes the consented motion filed by Opposer on October 25, 2020, to withdraw Opposer's request for Board participation in the discovery conference, adjourn the discovery conference set by the Board, and extend all deadlines, including the discovery conference deadline, for the parties to finalize a settlement agreement.

While the Board is liberal in granting extensions of time to accommodate settlement, after an answer has been filed, the Board is unlikely to find good cause for a motion, even upon consent or stipulation, to extend the deadline for the parties to conduct the required discovery conference when the basis for the motion is the existence of settlement discussions. *See* TBMP § 509.01(a); *Boston Red Sox Baseball Club LP v. Chaveriat*, 87 USPQ2d 1767, 1767 n.1 (TTAB 2008).

Inasmuch as the motion to extend was filed after the answer, but prior to the parties' discovery conference deadline, the Board does not find good cause to extend for the discovery conference, and the motion to extend is **denied**. The parties are expected to proceed to conduct the required discovery conference without delay. The Board finds, however, that based upon Opposer's representations, Board participation in the parties' discovery conference is not required and the Board grants the withdrawal of Opposer's request for Board participation in the discovery conference.

The deadline for the discovery conference, as last set by the Board's September 24, 2020 order, was October 19, 2020. The Board finds it appropriate to reset other remaining dates to accommodate the delay in scheduling and conducting the discovery conference. Remaining dates are reset as follows:

<b>Discovery Opens</b>	<b>11/8/2020</b>
<b>Initial Disclosures Due</b>	<b>12/8/2020</b>
<b>Expert Disclosures Due</b>	<b>4/7/2021</b>
<b>Discovery Closes</b>	<b>5/7/2021</b>
<b>Plaintiff's Pretrial Disclosures Due</b>	<b>6/21/2021</b>
<b>Plaintiff's 30-day Trial Period Ends</b>	<b>8/5/2021</b>
<b>Defendant's Pretrial Disclosures Due</b>	<b>8/20/2021</b>
<b>Defendant's 30-day Trial Period Ends</b>	<b>10/4/2021</b>
<b>Plaintiff's Rebuttal Disclosures Due</b>	<b>10/19/2021</b>
<b>Plaintiff's 15-day Rebuttal Period Ends</b>	<b>11/18/2021</b>
<b>Plaintiff's Opening Brief Due</b>	<b>1/17/2022</b>
<b>Defendant's Brief Due</b>	<b>2/16/2022</b>
<b>Plaintiff's Reply Brief Due</b>	<b>3/3/2022</b>
<b>Request for Oral Hearing (optional) Due</b>	<b>3/13/2022</b>

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).

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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:**

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Parties are strongly encouraged to check the entire document before filing.<sup>1</sup> 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.

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<sup>1</sup> To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.