

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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LH/vw

March 25, 2021

Opposition No. 91265024

bioMérieux Inc.

v.

Vytelle, LLC

Veronica P. White, Lead Paralegal Specialist:

Opposer's consented motion, filed March 9, 2021, to suspend proceedings for 60-days is noted.

Under the schedule adopted in the Board's January 7, 2021 order, Applicant's answer was due by March 8, 2021. Thus, Applicant was in default when the March 9, 2021 consented motion was submitted. However, inasmuch as the parties' are continuing to negotiate for a possible settlement of this case and Applicant has provided its consent, the motion is granted. The technical default is discharged and proceedings herein are suspended subject to the right of either party to request resumption at any time. *See* Trademark Rules 2.117(c) and 2.127(a); and TBMP § 605.02.

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, **proceedings shall resume without further notice or order from the Board**, upon the modified schedule set forth below.

Time to Answer	5/7/2021
Deadline for Discovery Conference	6/6/2021
Discovery Opens	6/6/2021
Initial Disclosures Due	7/6/2021
Expert Disclosures Due	11/3/2021
Discovery Closes	12/3/2021
Plaintiff's Pretrial Disclosures Due	1/17/2022
Plaintiff's 30-day Trial Period Ends	3/3/2022
Defendant's Pretrial Disclosures Due	3/18/2022
Defendant's 30-day Trial Period Ends	5/2/2022
Plaintiff's Rebuttal Disclosures Due	5/17/2022
Plaintiff's 15-day Rebuttal Period Ends	6/16/2022
Plaintiff's Opening Brief Due	8/15/2022
Defendant's Brief Due	9/14/2022
Plaintiff's Reply Brief Due	9/29/2022
Request for Oral Hearing (optional) Due	10/9/2022

An answer must be filed through ESTTA, the Board's Electronic System for Trademark Trials and Appeals. *See* Trademark Rule 2.106(b)(1).

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.¹ 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.

¹ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.