

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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April 9, 2024

Opposition No. 91267206

Freestyle Brands, LLC

v.

*The Pinkfong Company, Inc. FKA Smart
Study Co., Ltd.*

Chaunte Austin, Paralegal Specialist:

It has come to the attention of the Board that the trial schedule set forth in its March 26, 2024 order contained an inadvertent error in the calculation of the dates set forth.

The Board hereby vacates its March 26, 2024 trial schedule and replaces it herewith.

The Board notes the consented motion filed by Opposer on March 26, 2024, to suspend all dates, including the discovery conference deadline, for the parties to pursue settlement.

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) (“It is unlikely the Board will find good cause for a motion to extend or suspend for settlement if the motion is filed after answer but prior to the discovery conference, precisely because the discovery conference itself provides an opportunity to discuss settlement.”).

Inasmuch as the motion to suspend was filed after the answer, but prior to the parties’ discovery conference deadline, the Board does not find good cause to suspend. Accordingly, said motion is denied. The parties are expected to proceed to conduct the required discovery conference without delay.

Deadline for Discovery Conference	5/10/2024
Discovery Opens	5/10/2024
Initial Disclosures Due	6/9/2024
Expert Disclosures Due	10/7/2024
Discovery Closes	11/6/2024
Plaintiff's Pretrial Disclosures Due	12/21/2024
Plaintiff's 30-day Trial Period Ends	2/4/2025
Defendant's Pretrial Disclosures Due	2/19/2025
Defendant's 30-day Trial Period Ends	4/5/2025
Plaintiff's Rebuttal Disclosures Due	4/20/2025
Plaintiff's 15-day Rebuttal Period Ends	5/20/2025
Plaintiff's Opening Brief Due	7/19/2025
Defendant's Brief Due	8/18/2025
Plaintiff's Reply Brief Due	9/2/2025
Request for Oral Hearing (optional) Due	9/12/2025

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.