

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

May 5, 2021

Opposition No. 91268316

Red Bull GmbH

v.

Bison Products, LLC

Ellen Yowell, Lead Paralegal Specialist:

On April 13, 2021, Applicant filed a motion to dismiss for failure to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(6). On May 3, 2021, Opposer filed an amended notice of opposition.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107; TBMP § 507.01.

Opposer's amended notice of opposition was filed as a matter of course, and is accepted as Opposer's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(B).

Accordingly, Applicant's motion to dismiss is moot and will be given no consideration.

Applicant is allowed until June 4, 2021 to file an answer to the amended notice of opposition. Conferencing, discovery and trial dates are reset as follows:

Time to Answer	6/4/2021
Deadline for Discovery Conference	7/4/2021
Discovery Opens	7/4/2021
Initial Disclosures Due	8/3/2021
Expert Disclosures Due	12/1/2021
Discovery Closes	12/31/2021
Plaintiff's Pretrial Disclosures Due	2/14/2022
Plaintiff's 30-day Trial Period Ends	3/31/2022
Defendant's Pretrial Disclosures Due	4/15/2022
Defendant's 30-day Trial Period Ends	5/30/2022
Plaintiff's Rebuttal Disclosures Due	6/14/2022
Plaintiff's 15-day Rebuttal Period Ends	7/14/2022
Plaintiff's Opening Brief Due	9/12/2022
Defendant's Brief Due	10/12/2022
Plaintiff's Reply Brief Due	10/27/2022
Request for Oral Hearing (optional) Due	11/6/2022

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

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final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).