

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

ey

November 12, 2021

Opposition No. 91271212

TomTom International B.V.

v.

Taco Bell IP Holder, LLC

By the Trademark Trial and Appeal Board:

This serves to clarify the Board's prior order dated November 2, 2021 which states that dates remain as set forth in the Board's institution order.

The Board notes the consented motion filed by Opposer on November 2, 2021, to extend 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 extend was filed after the answer, but prior to the parties’ discovery conference deadline, the Board does not find good cause to extend. Accordingly, said motion is denied. The parties are expected to proceed to conduct the required discovery conference without delay.

Disclosure, discovery and trial dates remain as previously set in the Board’s institution order of August 23, 2021 at 2 TTABVUE 3.

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).