

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

lw/jmm

August 31, 2022

Opposition No. 91273401

*Continental D.I.A. Diamond Products, LLC
(substituted for Continental D.I.A. Diamond
Products, Inc.)*

v.

Wiha Werkzeuge GmbH

Jill M. McCormack, Interlocutory Attorney:

On March 23, 2022, Opposer filed a motion to substitute Continental D.I.A. Diamond Products, Inc. for Continental D.I.A. Diamond Products, LLC as party plaintiff in this proceeding. Opposer contends that “[o]n December 13, 2021, Continental D.I.A. Diamond Products, Inc. was converted into Continental D.I.A. Diamond Products, LLC, a Delaware limited liability company.” (5 TTABVUE 2). Opposer also provided copies of the relevant conversion and assignment documents, which were recorded with the U.S. Patent and Trademark Branch on February 24, 2022, at Reel/Frame 7642/0590. (*Id.* at 6–11).

Accordingly, Applicant’s motion is **granted as conceded**, and Continental D.I.A. Diamond Products, LLC is hereby substituted as party Opposer in this proceeding. See Trademark Rule 2.127(a), 37 C.F.R. § 2.127(a); TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 512.01 (2022).

On August 16, 2022, the parties filed a consent motion to suspend for settlement for 30 days. (6 TTABVUE). The motion is **granted**.

Because the parties are negotiating for a possible settlement of this case, proceedings are suspended up to, and including September 15, 2022, subject to the right of either party to request resumption at any time.¹ *See* Trademark Rule 2.117(c), 37 C.F.R. § 2.117(c); Trademark Rule 2.127(a); 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), 37 C.F.R. § 2.18(b)(1).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume without further notice or order from the Board, upon the schedule set forth below.

Proceedings Resume: **September 16, 2022**

Discovery Closes	9/20/2022
Plaintiff's Pretrial Disclosures Due	11/4/2022
Plaintiff's 30-day Trial Period Ends	12/19/2022
Defendant's Pretrial Disclosures Due	1/3/2023
Defendant's 30-day Trial Period Ends	2/17/2023
Plaintiff's Rebuttal Disclosures Due	3/4/2023
Plaintiff's 15-day Rebuttal Period Ends	4/3/2023
Plaintiff's Opening Brief Due	6/2/2023

¹ The parties should note that if proceedings are suspended for a lengthy period of time pursuant to the filing of several motions to suspend for settlement, the Board retains discretion to condition the approval of any future consented or stipulated motion to suspend on a party or the parties providing necessary information about the status of settlement talks, discovery activities, or trial activities, as may be appropriate. *See* Trademark Rule 2.117(c).

Defendant's Brief Due	7/2/2023
Plaintiff's Reply Brief Due	7/17/2023
Request for Oral Hearing (optional) Due	7/27/2023

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).