

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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August 12, 2023

Opposition No. 91274910

Brink Biologics, Inc.

v.

Agilent Technologies, Inc.

Karl Kochersperger, Paralegal Specialist:

Opposer's consented motion, filed August 8, 2023, to suspend this proceeding for 30 days is granted.

Because the parties are negotiating for a possible settlement of this case, proceedings are suspended, subject to the right of either party to request resumption at any time.¹ See Trademark Rules 2.117(c) and 2.127(a); and TBMP § 605.02.

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).

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.² See Trademark Rule 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.

An answer must be filed through ESTTA, the Board's Electronic System for Trademark Trials and Appeals. See Trademark Rule 2.106(b)(1)/2.114(b)(1). Conferencing, disclosure, discovery, and trial dates are reset as modified below:

Answer to Counterclaim Due	9/9/2023
Deadline for Discovery Conference	10/9/2023
Discovery Opens	10/9/2023
Initial Disclosures Due	11/8/2023
Expert Disclosures Due	3/7/2024
Discovery Closes	4/6/2024
Pretrial Disclosures Due for Party in Position of Plaintiff in Original Claim	5/21/2024
30-day Trial Period Ends for Party in Position of Plaintiff in Original Claim	7/5/2024
Pretrial Disclosures Due for Party in Position of Defendant in Original Claim and in Position of Plaintiff in Counterclaim	7/20/2024
30-day Trial Period Ends for Party in Position of Defendant in Original Claim, and in Position of Plaintiff in Counterclaim	9/3/2024
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Original Claim and in Position of Defendant in Counterclaim	9/18/2024
30-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Original Claim, and in Position of Defendant in Counterclaim	11/2/2024
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Counterclaim	11/17/2024

² If the parties are (or during the pendency of this proceeding become) parties to another proceeding involving the subject application, the parties must notify the Board so the Board can consider whether consolidation or suspension of proceedings is appropriate.

15-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Counterclaim	12/17/2024
Opening Brief for Party in Position of Plaintiff in Original Claim Due	2/15/2025
Combined Brief for Party in Position of Defendant in Original Claim and Opening Brief as Plaintiff in Counterclaim Due	3/17/2025
Combined Rebuttal Brief for Party in Position of Plaintiff in Original Claim and Brief as Defendant in Counterclaim Due	4/16/2025
Rebuttal Brief for Party in Position of Plaintiff in Counterclaim Due	5/1/2025
Request for Oral Hearing (optional) Due	5/11/2025

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.³ 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.

³ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.