

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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EJW

April 7, 2023

Opposition No. 91282859

Horizon Therapeutics Ireland DAC

v.

Geron Corporation

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

The Board notes Opposer's consented motion filed on March 21, 2023, to extend all trial dates, including the deadline for the discovery conference so that the parties can pursue settlement. 7 TTABVUE.

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.”). In view thereof, Opposer’s motion is **denied**.

Nonetheless, the Board notes Opposer’s request on February 28, 2023, in which it sought the Board’s participation in the parties’ discovery conference. 6 TTABVUE. The Board remains available to facilitate the conference, if necessary.

In view of the foregoing, and due to the passage of time since the filing of Opposer’s above-referenced request regarding the discovery conference,¹ the discovery conference due date, answer and disclosure deadlines, discovery and trial dates, are reset as follows:

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|--|-------------------|
| Deadline for Discovery Conference | 4/17/2023 |
| Discovery Opens | 4/17/2023 |
| Initial Disclosures Due | 5/17/2023 |
| Expert Disclosures Due | 9/14/2023 |
| Discovery Closes | 10/14/2023 |
| Plaintiff's Pretrial Disclosures Due | 11/28/2023 |
| Plaintiff's 30-day Trial Period Ends | 1/12/2024 |
| Defendant's Pretrial Disclosures Due | 1/27/2024 |
| Defendant's 30-day Trial Period Ends | 3/12/2024 |
| Plaintiff's Rebuttal Disclosures Due | 3/27/2024 |
| Plaintiff's 15-day Rebuttal Period Ends | 4/26/2024 |
| Plaintiff's Opening Brief Due | 6/25/2024 |

¹ The parties are reminded that should the Board not respond to a time-sensitive request, either party should contact the assigned Interlocutory Attorney by telephone, 571-272-9240.

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| Defendant's Brief Due | 7/25/2024 |
| Plaintiff's Reply Brief Due | 8/9/2024 |
| Request for Oral Hearing (optional) Due | 8/19/2024 |

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.² 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.

² To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.