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

November 1, 2023

Opposition No. 91285997

S&G Hampton Sun, LLC

v.

Hamptons Aromatherapy, Inc.

Lawrence T. Stanley, Jr., Interlocutory Attorney:

On July 11, 2023, Opposer filed a notice of opposition against Applicant's application Serial No. 97379210. 1 TTABVUE. Pursuant to the Board's July 11, 2023 institution order, Applicant's answer was due by August 20, 2023. 2 TTABVUE 3. On July 26, August 25, and September 22, 2023, Opposer filed consented motions to suspend for settlement (4, 7, and 9 TTABVUE), each of which was granted by the Board (5, 8, and 9 TTABVUE). In the Board's September 22, 2023 order, Applicant's deadline to answer was reset to November 21, 2023.

On October 22, 2023, Opposer filed a fourth motion to suspend the proceeding for thirty days for the parties' settlement discussions. 11 TTABVUE. On October 24, 2023, Applicant filed a response, requesting that the Board deny Opposer's motion to suspend and resume proceedings.[1] 12 TTABVUE.

[1] The Board exercises its discretion to rule on Opposer's motion to suspend before Opposer's reply brief is due because it finds a reply brief unnecessary to resolution of the motion.

Because either party has the right to request resumption of proceedings that are suspended pending settlement discussions, it follows that the Board will not grant a contested motion to suspend proceedings in such a case. *See* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 510.03(a) (2023); *MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 USPQ 952, 953 (TTAB 1979).

Accordingly, Opposer's motion to continue the suspension of proceedings pending the parties' settlement discussions, which Applicant has contested, is **denied**.[2] Pursuant to the Board's September 22, 2023 order, proceedings resumed on October 23, 2023, and dates remain as set in the Board's September 22, 2023 order, which are as follows:

Time to Answer	11/21/2023
Deadline for Discovery Conference	12/21/2023
Discovery Opens	12/21/2023
Initial Disclosures Due	1/20/2024
Expert Disclosures Due	5/19/2024
Discovery Closes	6/18/2024
Plaintiff's Pretrial Disclosures Due	8/2/2024
Plaintiff's 30-day Trial Period Ends	9/16/2024
Defendant's Pretrial Disclosures Due	10/1/2024
Defendant's 30-day Trial Period Ends	11/15/2024
Plaintiff's Rebuttal Disclosures Due	11/30/2024
Plaintiff's 15-day Rebuttal Period Ends	12/30/2024
Plaintiff's Opening Brief Due	2/28/2025

[2] The Board is liberal in granting stipulations to suspend proceedings to allow settlement discussions. Stipulations to suspend a proceeding should be filed promptly because, absent suspension, the Board expects the parties to adhere to the proceeding deadlines set by the Board. *See Atlanta-Fulton County Zoo Inc. v. De Palma*, 45 USPQ2d 1858, 1859 (TTAB 1998) ("[I]t is well established that the mere existence of settlement negotiations alone does not justify a party's inaction or delay.").

Defendant's Brief Due	3/30/2025
Plaintiff's Reply Brief Due	4/14/2025
Request for Oral Hearing (optional) Due	4/24/2025

Important Trial and Briefing Instructions

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). Such briefs should utilize citations to the TTABVUE record created during trial, to facilitate the Board's review of the evidence at final hearing. *See* TBMP § 801.03. 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).