

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

MBA

Mailed: September 24, 2007

Cancellation No. 92044046

Agrigenic Food Corporation

v.

Nature's Way Products, Inc.

David Mermelstein, Administrative Trademark Judge:

Petitioner filed its petition for cancellation in this proceeding on December 30, 2004, and respondent filed its answer on February 8, 2005. Since then, neither party has done anything except request suspensions and extensions of time. On July 19, 2006, the Board granted respondent's July 16, 2006, stipulated motion for suspension, but required that any further requests for suspension or extension be accompanied by a detailed report on the progress of the parties' settlement negotiations. On November 16, 2006, respondent filed another stipulated motion for suspension, with the required report, and, on September 11, 2007, respondent filed yet another stipulated motion for extension, also containing the required report.

Respondent's stipulated motion for suspension of September 11, 2007, is hereby granted in part as conceded.

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Trademark Rule 2.127(a). However, because the report contained in the stipulated motion does not indicate significant progress towards settlement, and because this case has sat idle too long, proceedings herein are suspended for a period of **THIRTY DAYS** from the mailing date of this order, subject to the right of either party to request resumption at any time. Trademark Rule 2.117(c). Any additional requests for suspension or extension will be very carefully scrutinized, and may be denied absent a showing of significant and concrete progress toward settlement. In the event there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings herein shall resume without further notice or order from the Board, and discovery and trial dates are reset as follows:

Proceedings resume:	October 18, 2007
Discovery Period to Close:	January 18, 2008
30-day testimony period for party in position of plaintiff to close:	April 17, 2008
30-day testimony period for party in position of defendant to close:	June 16, 2008
15-day rebuttal testimony period to close:	July 31, 2008

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By

this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>
