

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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December 6, 2018

Cancellation No. 92070017

Ugly Duckling Nails Inc.

v.

Ugly Duckling Asia Private Ltd.

Lalita Webb, Paralegal Specialist:

On November 20, 2018, the Board forwarded a notice of institution of this proceeding to Petitioner. On November 28, 2018, Petitioner filed an amended petition to cancel.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107/2.115; TBMP § 507.01. However, as a practical matter, because the time to answer set by the Board's institution order is 40 days, a plaintiff may amend its complaint once as a matter of course beyond the initial 21 days from serving it until

the defendant files either an answer or a motion under Fed. R. Civ. P. 12(b), (e) or (f).
See TBMP § 507.02.

Petitioner's amended petition to cancel was filed as a matter of course, and is accepted as Petitioner's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(A) and (B).

Accordingly, Respondent is allowed until thirty days from the date of this order to file an answer to the amended petition to cancel.

Conferencing, discovery and trial dates are reset as follows:

Time to Answer	1/5/2019
Deadline for Discovery Conference	2/4/2019
Discovery Opens	2/4/2019
Initial Disclosures Due	3/6/2019
Expert Disclosures Due	7/4/2019
Discovery Closes	8/3/2019
Plaintiff's Pretrial Disclosures Due	9/17/2019
Plaintiff's 30-day Trial Period Ends	11/1/2019
Defendant's Pretrial Disclosures Due	11/16/2019
Defendant's 30-day Trial Period Ends	12/31/2019
Plaintiff's Rebuttal Disclosures Due	1/15/2020
Plaintiff's 15-day Rebuttal Period Ends	2/14/2020
Plaintiff's Opening Brief Due	4/14/2020
Defendant's Brief Due	5/14/2020
Plaintiff's Reply Brief Due	5/29/2020
Request for Oral Hearing (optional) Due	6/8/2020

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).