

ESTTA Tracking number: **ESTTA1048994**

Filing date: **04/14/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92071109
Party	Defendant Majik Medecine, LLC
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Submission	Opposition/Response to Motion
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Date	04/14/2020
Attachments	Opposition to extension of time.pdf(47448 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CBDMD, LLC

Cancellation Proceeding # 92071109

Plaintiff/Petitioner

Registration # 5173264

-v-

Majik Medecine, LLC,

Defendant/ Registrant

Opposition to Requested Motion for Extension of Time

Background

The undersigned is compelled to again note that this action remains a blatant attempt of a multimillion dollar corporation to usurp the legitimate trademark rights of a smaller competitor with prior trademark rights.

More relevant to this opposition is that on April 14, 2020 the Petitioner filed a "Requested Motion for Extension of Time" requesting "an enlargement of the time to file the Initial Disclosure for one week, i.e. until April 21, 2020.

On February 14, 2020 Registrant filed a pending Motion and Brief under Fed. R. Civ. P. Rule 12(e) for a more definitive statement (Rule 12(e) motion) prior to filing an answer in this case.

The Board has yet to rule on the pending Rule 12(e) motion.

ARGUMENTS

It is not that the Registrant objects to the request for an extension of time in this matter, *per se*, but rather that there is no timeline to extend pending resolution of the Rule 12(e) motion of the petitioner.

The Registrant understands that the filing of various pleading motions under Fed. R. Civ. P. 12 (like the pending Rule 12(e) motion) will effectively act to stay the parties' obligations to conference and, subsequently, make initial disclosures. *See also* MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE, 72 Fed. Reg. 42242, 42245 (Aug. 1, 2007) ("Because disclosure is tied to claims and defenses, in general, a defendant's default or the filing of various pleading motions under Federal Rule 12 will effectively stay the parties' obligations to conference and, subsequently, make initial disclosures.").

It is the Registrant's understanding that the filing of the pending Rule 12(e) motion under Fed. R. Civ. P. 12 directed to plaintiff's pleading results in the suspension of the case for decision on the Rule 12(e) motion and the Board will reset the deadline for the discovery conference as well as all subsequent dates, as appropriate, when the Rule 12(e) motion is decided.

REQUEST:

The Board is requested to deny the request as moot in that the board will reset the deadline for the discovery conference as well as all subsequent dates, as appropriate, when the pending Rule 12(e) motion is decided. Should the Registrant's

understanding of the current stay be in error, then it would withdraw this opposition to the requested extension.

Respectfully Submitted:

/Blynn L. Shideler/

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CBDMD,LLC

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Plaintiff/Petitioner

-v-

Majik Medecine, LLC,

Registrant.

Certificate of Service

I, Blynn L. Shideler, hereby certify that on the 14th day of April, 2020, a true and correct copy of the foregoing **Opposition to Requested Motion for Extension of Time** filed with consent of the parties was served upon Counsel for the Plaintiff/Petitioner, by E-mail addressed as follows:

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