

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

October 18, 2021

Cancellation No. 92077557

DISH Network LLC

v.

Onstreaming LLC

J. Krisp, Interlocutory Attorney:

Registrant's Default

On August 29, 2021, the Board issued a notice of default and show cause order to Registrant based on its failure to file either an answer to the petition to cancel, or a motion to extend time to file said answer. 4 TTABVUE. On September 17, 2021 Registrant filed a response to the Board's show cause order and on September 20, 2021 filed its answer to the petition to cancel. 5 - 6 TTABVUE.

In its response, Registrant states, inter alia, that it inadvertently failed to timely file a motion requesting an extension or an answer while it made a determination on representation in this matter.

Inasmuch as the record does not indicate that Registrant has acted in bad faith, for the purpose of delay or with a lack of diligence, and indicates that Registrant seeks to set forth a meritorious defense to the allegations, Registrant has demonstrated the

requisite good cause to set aside the notice of default. Accordingly, the Board's August 29, 2021 default is set aside.

Registrant's answer to the petition to cancel is its operative pleading in this proceeding.

Proceedings are resumed, and the conference, disclosure, discovery and trial dates are reset as follows:

Deadline for Required Discovery Conference	11/17/2021
Discovery Opens	11/17/2021
Initial Disclosures Due	12/17/2021
Expert Disclosures Due	4/16/2022
Discovery Closes	5/16/2022
Plaintiff's Pretrial Disclosures Due	6/30/2022
Plaintiff's 30-day Trial Period Ends	8/14/2022
Defendant's Pretrial Disclosures Due	8/29/2022
Defendant's 30-day Trial Period Ends	10/13/2022
Plaintiff's Rebuttal Disclosures Due	10/28/2022
Plaintiff's 15-day Rebuttal Period Ends	11/27/2022
Plaintiff's Opening Brief Due	1/26/2023
Defendant's Brief Due	2/25/2023
Plaintiff's Reply Brief Due	3/12/2023
Request for Oral Hearing (optional) Due	3/22/2023

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.¹ 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.

¹ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.