

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

July 31, 2023

Cancellation No. 92078240

Dreams to Reality

v.

Dreams to Reality Foundation

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

This case now comes up for consideration of Respondent's contested motion (filed May 18, 2023) for entry of judgment under Trademark Rule 2.132(a), 27 TTABVUE;¹ and Petitioner's uncontested cross-motion (filed May 22, 2023) to reopen its time to submit its trial evidence by accepting Petitioner's evidence submitted on May 19, 2023. 30 TTABVUE 3.

¹ Citations to the record or briefs in this order include citations to the publicly available documents on the Trademark Trial and Appeal Board Inquiry System (TTABVUE), the Board's electronic docketing system. *See, e.g., New Era Cap Co., Inc. v. Pro Era, LLC*, 2020 USPQ2d 10596, at *2 n.1 (TTAB 2020) (citing *Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014)). To allow the Board and readers to easily locate materials in the record, the parties should cite to facts or evidence in the proceeding record by referencing the TTABVUE entry and downloadable PDF page number, e.g., "1 TTABVUE 2," and not attach previously-filed evidence to their briefs. *See TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) §§ 106.03, 801.01 and 801.03 (2023)*. For material or testimony that has been designated confidential and which does not appear on TTABVUE, the TTABVUE docket entry number where such material or testimony is located should be included in any citation.

The Board has considered the parties' briefs and materials or evidence submitted therewith, but addresses the record only to the extent necessary to support the Board's analysis and findings, and does not repeat or address all of the parties' arguments or materials. *Topco Holdings, Inc. v. Hand 2 Hand Indus., LLC*, 2022 USPQ2d 54, at *1 (TTAB 2022) (citing *Guess? IP Holder LP v. Knowluxe LLC*, 116 USPQ2d 2018, 2019 (TTAB 2015))⁶. For purposes of this order, the Board presumes the parties' familiarity with the trial schedule and the arguments submitted in connection with the subject motions.

The Board notes initially that Respondent did not respond to Petitioner's cross-motion to reopen its testimony period to accept Petitioner's May 19, 2023 submission. Accordingly, Petitioner's cross-motion to reopen its testimony period to include May 19, 2023 is **granted as conceded**. See Trademark Rule 2.127(a).

Accordingly, because Petitioner's evidence submitted on May 19, 2023, 28-29 TTABVUE, is now considered to be timely submitted, Respondent's motion under Trademark Rule 2.132(a) for an order granting judgment in favor of Respondent in view of Petitioner's failure to submit any testimony prior to the expiration of its testimony period is **denied as moot**.

The proceeding is resumed. Trial dates are reset as shown in the following schedule:²

² Petitioner states that Respondent served its pretrial disclosures on May 19, 2023. 30 TTABVUE 4. If Respondent needs time to serve amended pretrial disclosures because Petitioner submitted its evidence on the same date that Respondent's pretrial disclosures were served, the Board will entertain a motion to reopen Respondent's time to serve amended pretrial disclosures.

Defendant's 30-day Trial Period Ends	9/15/2023
Plaintiff's Rebuttal Disclosures Due	9/30/2023
Plaintiff's 15-day Rebuttal Period Ends	10/30/2023
Plaintiff's Opening Brief Due	12/29/2023
Defendant's Brief Due	1/28/2024
Plaintiff's Reply Brief Due	2/12/2024
Request for Oral Hearing (optional) Due	2/22/2024

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).