

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

October 16, 2023

Cancellation No. 92078502

*Flamel Ireland Limited*

*v.*

*Rethink Creative Group LLC*

**Andrew P. Baxley, Interlocutory Attorney:**

Petitioner's motion (filed September 13, 2023) for leave to file an amended petition to cancel is granted as conceded. *See* Trademark Rule 2.127(a). The concurrently filed second amended petition to cancel (36 TTABVUE 22-27) is accepted as the operative complaint herein. Respondent is allowed until **twenty days** from the mailing date of this order to file an answer thereto.

Proceedings are resumed. Remaining dates are reset as follows.

Plaintiff's Pretrial Disclosures Due	11/5/2023
Plaintiff's 30-day Trial Period Ends	12/20/2023
Defendant's Pretrial Disclosures Due	1/4/2024
Defendant's 30-day Trial Period Ends	2/18/2024
Plaintiff's Rebuttal Disclosures Due	3/4/2024
Plaintiff's 15-day Rebuttal Period Ends	4/3/2024
Plaintiff's Opening Brief Due	6/2/2024
Defendant's Brief Due	7/2/2024
Plaintiff's Reply Brief Due	7/17/2024
Request for Oral Hearing (optional) Due	7/27/2024

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).

### **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.

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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.<sup>1</sup> 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.

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<sup>1</sup> To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.