

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500  
General Email: [TTABInfo@uspto.gov](mailto:TTABInfo@uspto.gov)

April 14, 2022

Cancellation No. 92079243

*Atlantic Optical Company, Incorporated*

*v.*

*Spacely, LLC*

**Victoria von Vistauxx, Paralegal Specialist:**

**1. Bar Membership Information Required**

Respondent's notice of appearance of counsel filed on April 13, 2022, is noted and made of record. 4 TTABVUE.

Effective August 3, 2019, the USPTO amended its rules to require all practitioners qualified under 37 C.F.R. § 11.14(a) to provide the name of a state in which he or she is an active member in good standing; the date of admission to the bar of the named state; and the bar license number, if one is issued by the named state. 37 C.F.R. § 2.17(b)(3).

Accordingly, counsel is allowed **TEN DAYS** from the date of this order to provide the required bar information using the Change of Address form in ESTTA.<sup>1</sup> The bar

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<sup>1</sup> When representing a U.S.-domiciled party or parties, the person filing must check the "I am represented by an attorney" checkbox at the bottom of the applicable ESTTA screen.

information entered on the ESTTA Change of Address form will be masked from TTABVUE, the Board's publicly-available docket and file information.

If the required information is not filed in the time allowed, the Board may issue an order to show cause for failure to provide the required information.

## 2. Extension of Time

Respondent's consented motion, filed April 13, 2022, to extend time to file an answer to the petition to cancel, and to extend conference, disclosure, discovery and trial dates, is **granted**.<sup>2</sup> Trademark Rule 2.127(a).

Answer is due **JUNE 24, 2022**. An answer must be filed through ESTTA, the Board's Electronic System for Trademark Trials and Appeals. *See* Trademark Rule 2.114(b)(1).

The conference, disclosure, discovery and trial dates are reset in accordance with Respondent's motion as follows:

Deadline for Discovery Conference	7/24/2022
Discovery Opens	7/24/2022
Initial Disclosures Due	8/23/2022
Expert Disclosures Due	12/21/2022
Discovery Closes	1/20/2023
Plaintiff's Pretrial Disclosures Due	3/6/2023
Plaintiff's 30-day Trial Period Ends	4/20/2023
Defendant's Pretrial Disclosures Due	5/5/2023
Defendant's 30-day Trial Period Ends	6/19/2023
Plaintiff's Rebuttal Disclosures Due	7/4/2023
Plaintiff's 15-day Rebuttal Period Ends	8/3/2023

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<sup>2</sup> When parties stipulate to the rescheduling of a deadline for pretrial disclosures and subsequent testimony periods or to the rescheduling of the closing date for discovery and the rescheduling of subsequent deadlines for pretrial disclosures and testimony periods, a stipulation presented in the form used in a trial order, signed by the parties, or a motion in said form signed by one party and including a statement that every other party has agreed thereto, shall be submitted to the Board through ESTTA, with the relevant dates set forth and an express statement that all parties agree to the new dates. Trademark Rule 2.121(d).

Plaintiff's Opening Brief Due	10/2/2023
Defendant's Brief Due	11/1/2023
Plaintiff's Reply Brief Due	11/16/2023
Request for Oral Hearing (optional) Due	11/26/2023

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.

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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>3</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>3</sup> To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.