

ESTTA Tracking number: **ESTTA1335534**

Filing date: **01/22/2024**

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

Proceeding no.	92081595
Party	Defendant Honest History Co.
Correspondence address	ERICA VAN LOON NIXON PEABODY LLP 300 SOUTH GRAND AVENUE, SUITE 4100 LOS ANGELES, CA 90071-3151 UNITED STATES Primary email: <a href="mailto:evanlann@nixonpeabody.com">evanlann@nixonpeabody.com</a> Secondary email(s): <a href="mailto:kmorrison@nixonpeabody.com">kmorrison@nixonpeabody.com</a> , <a href="mailto:sftm@nixonpeabody.com">sftm@nixonpeabody.com</a> , <a href="mailto:SF.managing.clerk@nixonpeabody.com">SF.managing.clerk@nixonpeabody.com</a> 213-629-6031
Submission	Stipulated/Consent Motion to Extend
Filer's name	Kaleigh P. Morrison
Filer's email	<a href="mailto:kmorrison@nixonpeabody.com">kmorrison@nixonpeabody.com</a> , <a href="mailto:was.managing.clerk@nixonpeabody.com">was.managing.clerk@nixonpeabody.com</a>
Signature	/KPM/
Date	01/22/2024
Attachments	Stipulation as to Expert Discovery Schedule and Extension of Deadline s 4894-2216-2591 v.2.pdf(109466 bytes )

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

Mercury One, Inc.,	)	
	)	
	)	
v.	)	Cancellation No. 92081595
	)	
Honest History Co,	)	
	)	
Respondent.	)	
	)	

**NOTICE OF JOINT STIPULATION REGARDING  
EXPERT DISCOVERY SCHEDULE AND EXTENSION OF DEADLINES**

The Parties have reached an agreement to set forth specific deadlines for expert disclosure, rebuttal expert disclosure, and expert discovery (the “Expert Discovery Schedule”) as well as an extension as to the pretrial and trial dates in this matter, and the Parties respectfully request that the Expert Discovery Schedule and Updated Proposed Deadlines set forth below be adopted in this proceeding. The Parties believe these deadlines are needed to set forth a specific and reliable schedule to provide for additional time for expert rebuttals and expert discovery in this proceeding. The Parties believe granting this Expert Discovery Schedule will minimize or potentially eliminate the need to suspend this proceeding for expert discovery or the need to obtain other requests for extensions of time to properly and thoroughly conduct expert discovery.

The Parties have conferred regarding the Expert Discovery Schedule in this matter and stipulate as follows:

1. Opening expert disclosures (including reports) shall be due January 22, 2024, and fact discovery closes on February 22, 2024 (as currently set);
2. Rebuttal expert disclosures (including reports) shall be due 40 days after service of the expert report being rebutted (which will be no later than March 2, 2024);  
and,
3. Expert discovery, including expert depositions, shall be completed within 45 days after the close of fact discovery, on April 7, 2024.

In light of the proposed Expert Discovery Schedule, the Parties request the deadline for Plaintiff's Pretrial Disclosures and all subsequent deadlines be extended an additional month, as shown below:

	<b>Initial TTAB Deadlines</b>	<b>First Revised Deadlines</b>	<b>Updated Proposed Deadlines</b>
Expert Disclosures Due	9/22/2023	1/22/2024	1/22/2024
Fact Discovery Closes	10/22/2023	2/22/2024	2/22/2024
Rebuttal Expert Deadline			40 days after service of the expert report being rebutted (no later than 3/2/2024)
Expert Discovery Closes			4/7/24
Plaintiff's Pretrial Disclosures Due	12/6/2023	4/6/2024	5/6/2024
Plaintiff's 30-day Trial Period Ends	1/20/2024	5/20/2024	6/20/2024
Defendant's Pretrial Disclosures Due	2/4/2024	6/4/2024	7/4/2024
Defendant's 30-day Trial Period Ends	3/20/2024	7/20/2024	8/20/2024
Plaintiff's Rebuttal Disclosures Due	4/4/2024	8/4/2024	9/4/2024
Plaintiff's 15-day Rebuttal Period Ends	5/4/2024	9/4/2024	10/4/2024
Plaintiff's Opening Brief Due	7/3/2024	11/4/2024	12/4/2025
Defendant's Brief Due	8/2/2024	12/2/2024	1/2/2025
Plaintiff's Reply Brief Due	8/17/2024	12/17/2024	1/17/2025
Request for Oral Hearing (optional) Due	8/27/2024	12/27/2024	1/27/2025

The Parties respectfully request that the Board agree and adopt the above Proper Expert Discovery schedule and extended deadlines for this proceeding.

Dated January 22, 2024

/ KPM /  
 Erica J. Van Loon  
 Joshua J. Pollack  
 Nixon Peabody LLP  
 300 South Grand Avenue, Suite 4100  
 Los Angeles, CA 90071  
 Telephone: 213-629-6000  
 E-mail: [evanloon@nixonpeabody.com](mailto:evanloon@nixonpeabody.com)  
[jpollack@nixonpeabody.com](mailto:jpollack@nixonpeabody.com)

Kaleigh P. Morrison  
1300 Clinton Square  
Rochester, NY 14604  
Telephone: 585-263-1000  
Email: kmorrison@nixonpeabody.com

*Attorneys for Respondent*

/s/ D. Scott Hemingway /  
D. Scott Hemingway  
HEMINGWAY & HANSEN, LLP  
1700 Pacific Avenue, Suite 1820  
Dallas, TX 75201  
Tel: 214-292-8301  
Fax: 214-292-8999 (fax)  
[shemingway@hh-iplaw.com](mailto:shemingway@hh-iplaw.com)

*Attorney for Petitioner*