

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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kb/kds

May 13, 2024

Cancellation No. 92081595

Mercury One, Inc.

v.

Honest History Co.

Katie Bukrinsky, Interlocutory Attorney:

On March 25, 2024, proceedings herein were suspended pending the disposition of Petitioner's motion to challenge Respondent's designations under the Standard Protective Order. The order suspended proceedings with respect to all deadlines with the exception of the parties' duty to respond to any outstanding discovery and serve expert disclosures, and stated that any paper filed during the pendency of the motion which is not relevant thereto will be given no consideration. *See* 14 TTABVUE 1.

Although the motion has been fully briefed, the parties continue to file submissions unrelated thereto. Accordingly, the parties' filings at 20, 21, 22, and 24 TTABVUE will be given **no consideration**.¹

¹ Respondent's change of correspondence address, filed May 8, 2024, is noted and the Board's records have been updated accordingly. *See* 23 TTABVUE.

Further, as noted above, the deadline to serve expert disclosures was not tolled by the suspension order that issued. *See* 14 TTABVUE 1. While the Board notes Petitioner's notice of rebuttal and response expert disclosures, filed April 3, 2024,² no notice of expert disclosures has been filed by Respondent. *See RTX Scientific Inc. v. Nu-Calgon Wholesaler Inc.*, 106 USPQ2d 1492, 1493 n.3 (TTAB 2013) (a party must notify the Board of its plan to use an expert (without including copies of expert disclosures), and that it has made required expert disclosures to adversary; the best practice is to notify the Board concurrently with the expert disclosures to adverse party); *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 401.03 (2023). Accordingly, if timely disclosures were served, Respondent is allowed **TEN DAYS from the date of this order** in which to file with the Board and serve its notice of expert disclosures.

Proceedings **remain otherwise suspended** pending a determination of Petitioner's motion to challenge Respondent's designations under the Standard Protective Order.

² The parties are advised that the Board makes no determination regarding the admissibility of any expert materials at this time. In addition, expert discovery is suspended by the Board's March 25, 2024 order.