

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

JMW

Mailed: December 11, 2017

Cancellation No. 92066765

*Ing. Khachatur Mkrtchyan*

*v.*

*Biostar Technology International LLC*

**Benjamin U. Okeke, Interlocutory Attorney:**

The Board notes Respondent's motion for summary judgment based upon res judicata under Fed. R. Civ. P. 56, or in the alternative to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). 4 TTABVUE.

When a party timely files a potentially dispositive motion, the proceeding is suspended with respect to all matters not germane to the motion, and no party should file any paper which is not germane to the motion except as otherwise may be specified in a Board order. *See* Trademark Rule 2.127(d). Accordingly, as of the filing date of the motion to dismiss, the proceeding is **SUSPENDED** pending disposition of the motion. Any paper filed during the pendency of this motion which is not germane thereto will be given no consideration.<sup>1</sup> *See* Trademark Rule 2.127(d).

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<sup>1</sup> Accordingly, Petitioner's submissions dated November 24, 2017 and December 5, 2017, will be given no consideration and have not been properly made of record. Further, Petitioner's "reply," filed November 10, 2017, 8 TTABVUE, has been given no consideration, because a nonmovant is only entitled to file an opposition to a motion, and is not entitled to file a "reply" brief or a surreply. *See* Trademark Rule 2.127(a) (after the movant's reply brief, "[t]he Board will consider no further papers

The parties should note that the schedule for the discovery conference, initial disclosures and discovery is also suspended by this order and will be reset in the event that the Board resumes the proceeding. TBMP § 401.01.

The motion for summary judgment or to dismiss will be decided in due course.

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in support of or in opposition to a motion”); TBMP § 502.02(b) (June 2017). Finally, requests for discovery, responses thereto, and materials or depositions obtained through the discovery process, should not be filed with the Board except when submitted (1) with a motion relating to discovery; or (2) in support of or response to a motion for summary judgment; or (3) under a notice of reliance during a party’s testimony period; or (4) as exhibits to a testimony deposition; or (5) in support of an objection to proffered evidence on the ground that the evidence should have been, but was not, provided in response to a request for discovery. *See* Trademark Rule 2.120(j)(8).