

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Mailed: August 24, 2005

Opposition No. 91162330

L.C. Licensing, Inc.

v.

Berman, Cary

**Thomas W. Wellington
Interlocutory Attorney,
Trademark Trial and Appeal Board:**

On April 11, 2005, opposer filed a motion to compel discovery. Specifically, by way of the motion, opposer seeks to compel applicant to "provide complete and accurate responses" to opposer's First Set of Interrogatories and Opposer's First Set of Requests for Production of Documents and Things.

On May 13, 2005, the Board issue a suspension order pending resolution of the motion to compel.

On June 3, 2005, applicant filed a communication with the Board wherein he requested an "in person audience" with the Board to discuss the outstanding discovery disputes. The communication does not contain proof of service of same on opposer as required by Trademark Rule 2.119.

Because applicant's June 3 communication does not contain proof of service and is an untimely response to opposer's motion to compel, it is not given consideration by the Board. Trademark Rule 2.119. Trademark Rule 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board.¹ Indeed, even if the paper were considered, we note that it does not respond in substance to opposer's motion to compel; rather, it contains an inappropriate request for a confidential "in person audience" with the Board.²

In view thereof, opposer's motion to compel is granted as conceded by applicant under Trademark Rule 2.127(a).

Applicant is allowed until twenty days from the mailing date stamped on this order to respond, as requested in opposer's

¹ Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.

² It is noted that applicant intends to represent himself in this proceeding. While USPTO rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board to secure the services of an attorney who is familiar with such matters. The USPTO cannot aid in the selection of an attorney.

motion, to opposer's first set of interrogatories and first requests for production of documents without objection.

Should applicant fail to comply with this order in the time period allowed above, the Board will entertain a motion for sanctions by opposer. See Trademark Rule 2.120(g).

Proceedings herein are resumed and trial dates, including the close of discovery, are reset as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	September 20, 2005
30-day testimony period for party in position of plaintiff to close:	December 19, 2005
30-day testimony period for party in position of defendant to close:	February 17, 2006
15-day rebuttal testimony period to close:	April 3, 2006

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.