

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

Baxley

Mailed: December 4, 2007

Opposition No. 91176139

V & V Supremo Foods, Inc.

v.

Corporative Brandings And
Investments, S.A. de C.V.

Andrew P. Baxley, Interlocutory Attorney:

Opposer's motion (filed October 22, 2007) to compel discovery is granted as conceded. See Trademark Rule 2.127(a). Applicant is allowed until forty days from the mailing date set forth in the caption of this order to serve upon opposer responses without objection to opposer's first set of interrogatories and first set of document requests,¹ and to notify applicant that the selection, designation and

¹ A party which fails to respond to a request for discovery during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits. See *Bison Corp. v. Perfecta Chemie B.V.*, 4 USPQ2d 1718 (TTAB 1987); *Luehrmann v. Kwik Kopy Corp.*, 2 USPQ2d 1303 (TTAB 1987); *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448 (TTAB 1979); *MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 USPQ 952 (TTAB 1979); and *Crane Co. v. Shimano Industrial Co.*, 184 USPQ 691 (TTAB 1975).

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identification of such items and documents has been completed.²

Opposer is allowed until **thirty days** from receipt of notification from applicant that the items or documents have been selected, designated and identified to inspect and copy the produced materials, as provided for in Fed. R. Civ. P. 34(b) and Trademark Rule 2.120(d)(2), unless the parties otherwise agree.³

If applicant fails to fully comply with this order, applicant's remedy lies in a motion for judgment pursuant to Trademark Rule 2.120(g)(1).

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

DISCOVERY PERIOD TO CLOSE: February 8, 2008

Plaintiff's 30-day testimony period to close: **May 8, 2008**

Defendant's 30-day testimony period to close: **July 7, 2008**

Plaintiff's 15-day rebuttal testimony period to close: **August 21, 2008**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served

² If the materials are voluminous, applicant may produce a representative sampling and so inform opposer that a representative sampling has been produced.

³ Opposer, however, need not provide privileged information and documents inasmuch as its right to claim privilege has not been waived. See, e.g., *American Standard, Inc. v. Pfizer*, 3 USPQ2d 1817 (Fed. Cir. 1987).

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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.