

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

Lg

Mailed: April 7, 2008

Opposition No. 91177708

Network Appliance, Inc.

v.

Acronis Inc.

Elizabeth A. Dunn, Attorney

This case now comes up on opposer's motion, filed February 20, 2008, to compel applicant to answer opposer's first set of interrogatories and first set of document requests. Applicant has failed to file a brief in response to opposer's motion. See Trademark Rule 2.127(a).¹

In view of the circumstances set forth in opposer's motion to compel, and because applicant has not responded to the motion, opposer's motion to compel discovery is granted. See Trademark Rule 2.120(e).

Applicant is allowed until 20 days from the mailing date of this order in which to respond to opposer's first

¹ Trademark Rule 2.127(a) reads, in relevant part, as follows:
"When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded."

set of interrogatories and first set of document requests, failing which a motion for sanctions will be entertained by the Board. See Trademark Rule 2.120(g)(1). Opposer is allowed until 40 days from the mailing date of this order to serve follow up discovery. Trial date are reset below:

DISCOVERY (except as specified above)	CLOSED
Thirty-day testimony period for party in position of plaintiff to close:	July 3, 2008
Thirty-day testimony period for party in position of defendant to close:	September 1, 2008
Fifteen-day rebuttal testimony period to close:	October 16, 2008

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>