

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

Mailed: January 27, 2010

Opposition No. **91185374**

CBS Broadcasting Inc.

v.

Jamie Mahjobi

Ann Linnehan, Interlocutory Attorney

This case now comes up for consideration of opposer's motion (filed August 31, 2009) to:

(1) compel applicant to serve her initial disclosures under Fed. R. Civ. P. 26(a)(1); and

(2) compel applicant to provide dates for her availability for a deposition within the county of her residence.¹

As a preliminary matter, the Board finds that opposer has made a good-faith effort pursuant to Trademark Rule 2.120(e) to resolve the present discovery dispute prior to seeking the Board's intervention. The Board reminds the parties that they are expected to cooperate with another so

¹ The Board has exercised its discretion and has considered the supplemental brief filed by opposer on September 4, 2009 inasmuch as it provides the Board an update of the dispute between the parties.

that the case may proceed in an orderly manner within reasonable time constraints.

In support of its motion to compel, opposer first claims that applicant failed to serve initial disclosures prior to the deadline of June 28, 2009, despite opposer's reminders that disclosures were due. After it filed its motion to compel, opposer indicates that applicant served what are purportedly her disclosures on September 4, 2009. Opposer indicates that such disclosures are inadequate because they fail to provide any identification of any person whose testimony might be used to support or contradict the claims at issue in this proceeding. Opposer seeks an order compelling applicant to produce revised initial disclosures that comply with the requirements of Fed. R. Civ. P. 26(a)(1). Opposer also argues that is has been unable to obtain a response from applicant regarding when and where she is available to sit for her deposition in this case.

The Board first turns to consider whether the initial disclosures served by applicant on September 4, 2009 comply with the applicable rule. Under Fed. R. Civ. P. 26(a)(1)(A)(i), applicant was required to disclose "the name and, if known, the address and telephone number of each individual likely to have discoverable information - along

with the subjects of that information - that [applicant] may use to support [her] claims or defenses"

A review of applicant's initial disclosures indicates that applicant has not provided the names of any individuals (including herself) that she may use to support or contradict the claims at issue.² To this extent, applicant's initial disclosures clearly fail to comply with the rule.

The Board turns next to the issue regarding the scheduling of applicant's deposition. Inasmuch as it appears that applicant has failed to respond to opposer's requests for information regarding the scheduling of her deposition, it too is clear that applicant is attempting to circumvent opposer's efforts to take the deposition. Applicant's argument (to the extent it is comprehensible) that "there has never been any refusal to provide responses to opposer's questions...Opposer has not served any questions" is not well-taken.

Accordingly, opposer's motion to compel is hereby granted to the extent that within **ten days** of the date set forth in the above caption applicant must provide dates for her availability for a deposition within the county of her residence such that her discovery deposition may be

² The Board notes that in her brief in response to the motion, applicant does not affirmatively state that there are no individuals with discoverable information.

conducted within *sixty-five days* of this order.

Additionally, within **twenty days** applicant must provide a revised copy of her initial disclosures which complies with Fed. R. Civ. P. 26 and with the discussion herein.

If applicant fails to fully comply with this order, opposer's remedy lies in a motion for entry of judgment as a discovery sanction under Trademark Rule 2.120(g)(1).

Proceedings are hereby resumed and trial dates are reset as follows:

Expert Disclosures Due	4/2/2010
Discovery Closes	5/2/2010
Plaintiff's Pretrial Disclosures	6/16/2010
Plaintiff's 30-day Trial Period Ends	7/31/2010
Defendant's Pretrial Disclosures	8/15/2010
Defendant's 30-day Trial Period Ends	9/29/2010
Plaintiff's Rebuttal Disclosures	10/14/2010
Plaintiff's 15-day Rebuttal Period Ends	11/13/2010

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.