

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

Mailed: August 4, 2009

Opposition No. 91186154

Top Gun Intellectual
Properties, LLC

v.

United IP, LLC

Frances S. Wolfson, Interlocutory Attorney:

Opposer's motion (filed June 10, 2009) to compel applicant to respond to opposer's first set of interrogatories and requests for production of documents is hereby granted as conceded. See Trademark Rule 2.127(a).

By failing to respond to the discovery requests or show excusable neglect for such failure, applicant has forfeited its right to object to the discovery requests on their merits.¹ See TBMP § 403.03 (2d ed. rev. 2004).

¹ Objections going to the merits of a discovery request include those which challenge the request as overly broad, unduly vague and ambiguous, burdensome and oppressive, as seeking non-discoverable information on expert witnesses, or as not calculated to lead to the discovery of admissible evidence. In contrast, claims that information sought by a discovery request is a trade secret, is business-sensitive or otherwise confidential, is subject to attorney-client or a like privilege, or comprises attorney work product, go not to the merits of the request but to a characteristic or attribute of the responsive information. The Board generally is not inclined to hold a party to have waived the right to make these claims, even when the party is otherwise held to have waived its right to make objections to the merits of discovery requests.

Accordingly, applicant is allowed until THIRTY DAYS from the mailing date of this order to respond fully and without objection to opposer's discovery requests.

Trial dates, including the close of discovery, are reset as indicated below.

Discovery Closes	10/21/09
Plaintiff's Pretrial Disclosures Due	12/5/09
Plaintiff's 30-day Trial Period Ends	1/19/10
Defendant's Pretrial Disclosures Due	2/3/10
Defendant's 30-day Trial Period Ends	3/20/10
Plaintiff's Rebuttal Disclosures Due	4/4/10
Plaintiff's 15-day Rebuttal Period Ends	5/4/10

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.