

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

Mailed: May 9, 2011

Opposition No. 91194351

Kashi Company

v.

Dawn Bolden

**Robert H. Coggins,
Interlocutory Attorney:**

This case now comes up on opposer's motion (filed April 1, 2011) to compel initial disclosures.

Telephone Conference

The Board exercised its discretion to determine the motion by telephone; and, at approximately 10:00 a.m. EDT on May 6, 2011, the Board convened a telephone conference. Participating were Dawn Bolden, applicant, appearing *pro se*; Geoffrey Aurini, counsel for opposer; and the above signed, as Board attorney responsible for resolving interlocutory disputes in this case.

There ensued a lengthy and amicable discussion about the nature and sequence of Board proceedings, each party's

obligations with respect to initial disclosure and discovery, the possibility and probability of settlement, the role of the Board in this proceeding, and the general *pro se* information in the Board's July 8, 2010 order.

Motion to Compel

The Board carefully considered the supporting correspondence and the record of this case, as well as the comments made by both parties, in coming to a determination regarding the motion to compel. During the conference, the Board discussed Fed. R. Civ. P. 26 (a) (1) (A) which provides in pertinent part that:

...a party must, without awaiting a discovery request, provide to the other parties (i) 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 the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; [and] (ii) a copy –or a description by category and location– of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses...

After discussion of the rule, the Board turned to the merits of the motion to compel and, as an initial matter, found that opposer had made a good faith effort, as required by Trademark Rule 2.120(e) (1), to resolve the discovery dispute prior to seeking Board intervention. The Board then granted the motion to compel, and allowed applicant until

June 6, 2011, in which to serve on opposer applicant's initial disclosures.

Possible Settlement

The parties stated that settlement is possible. Each party outlined a general settlement position, and applicant agreed to consider opposer's four-point position after applicant can conduct further research. Opposer agreed to work with applicant to find a convenient time (e.g., Saturdays) to continue settlement discussions outside the presence of the Board. The Board reminded the parties that if settlement is not reached, this case will move forward.

Extension of Time

Opposer mentioned that it had previously served outstanding discovery requests on applicant. In view of the possibility of settlement and the granting of the motion to compel initial disclosures, the parties agreed to an extension of time in which applicant's responses to opposer's outstanding discovery requests would be due. In an effort to ease the obligations of applicant and to allow the parties to focus on settlement, the deadline for applicant's responses was extended to July 6, 2011. The Board stated that it was not compelling discovery responses, but would acknowledge the parties' agreement to extend time. Should opposer wish to compel discovery responses, it may do so by means of a timely and appropriate motion to compel.

Change of Address

Applicant provided a new correspondence address. In view thereof, Board records have been updated to reflect 900 Southerly Rd Apt 309, Towson, MD 21204 as applicant's correspondence address.

Schedule

Proceedings remain suspended for sixty days, during which time applicant's initial disclosures and responses to outstanding discovery are due. Dates were reset on the following schedule.

Defendant's Initial Disclosures Due	6/6/2011
Defendant's Discovery Responses Due	7/6/2011
Proceedings Resume	7/7/2011
Expert Disclosures Due	7/22/2011
Discovery Closes	8/21/2011
Plaintiff's Pretrial Disclosures	10/5/2011
Plaintiff's 30-day Trial Period Ends	11/19/2011
Defendant's Pretrial Disclosures	12/4/2011
Defendant's 30-day Trial Period Ends	1/18/2012
Plaintiff's Rebuttal Disclosures	2/2/2012
Plaintiff's 15-day Rebuttal Period Ends	3/3/2012

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.