

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

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Mailed: October 23, 2012

**Opposition No. 91199109  
(parent case)**

Opposition No. 91199111

Calpis Co., Ltd.

v.

Calico Jack's LLC

Jennifer Krisp, Interlocutory Attorney:

On July 24, 2012, opposer filed a motion to compel discovery. The record indicates that applicant filed no response thereto. Accordingly, opposer's motion is hereby granted as conceded. See Trademark Rules 2.120(e) and 2.127(a).

Applicant is allowed until twenty (20) days from the mailing date of this order to serve on opposer its responses to opposer's First Set of Document Requests and First Set of Interrogatories.

A party which fails to respond to interrogatories or document requests during the time allowed therefor, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery requests on the merits. The Board has great discretion in

**Opposition No. 91199109**

determining whether such forfeiture should be imposed. See *No Fear Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000); TBMP § 403.03. Accordingly, applicant must respond in full and without objection because applicant failed to either appropriately respond to or appropriately object to opposer's discovery requests. *Id.*

In the event that applicant fails to serve responses as directed herein, opposer's remedy will lie in a motion for entry of sanctions, including a sanction in the form of entry of judgment sustaining the opposition. See Trademark Rule 2.120(g).

Opposer's First Set of Requests For Admission are deemed admitted pursuant to Fed. R. Civ. P. 36(a)(3).<sup>1</sup>

Proceedings are resumed. Dates are reset on the following schedule:

Expert Disclosures Due	12/21/2012
Discovery Closes	1/20/2013
Plaintiff's Pretrial Disclosures due	3/6/2013
Plaintiff's 30-day Trial Period Ends	4/20/2013
Defendant's Pretrial Disclosures due	5/5/2013
Defendant's 30-day Trial Period Ends	6/19/2013
Plaintiff's Rebuttal Disclosures due	7/4/2013
Plaintiff's 15-day Rebuttal Period Ends	8/3/2013

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

**Opposition No. 91199109**

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.

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<sup>1</sup> Fed. R. Civ. P. 36 is applicable to inter partes proceedings before the Board pursuant to Trademark Rule 2.116(a).