

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

Mailed: December 6, 2011

Opposition No. 91201070

ANDERSON VALLEY ACQUISITION  
COMPANY, LLC

v.

MATTHEW HARNDEN and ROGER  
SCOMMEGNA

**Cheryl Butler, Attorney, Trademark Trial and Appeal Board:**

In accordance with the Board's order dated August 10, 2011, the deadline for initial disclosures was set as November 18, 2011. On that day, applicants filed a motion for summary judgment in their favor without indicating that they had served their initial disclosures.

In cases commenced on and after November 1, 2007, a party may not file a motion for summary judgment under Trademark Rule 2.127(e)(1) until the party has made its initial disclosures (except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Board, not present here). See *Compagnie Gervais Danone v. Precision Formulations LLC*, 89 USPQ2d 1251 (TTAB 2008); and TBMP § 528.02 (3d ed. 2011).

The Board had done cursory review of applicants' motion and did not find a statement that applicants have served

their initial disclosures. Unlike after the due date has expired, the Board cannot presume that the initial disclosures were served on or by the due date without a statement from the moving party clarifying the matter. As a consequence, applicants' summary judgment motion is premature and can be given no further consideration.

Dates otherwise remain as set in the Board's August 10, 2011 order and are copied below:

Expert Disclosures Due	3/17/2012
Discovery Closes	4/16/2012
Plaintiff's Pretrial Disclosures	5/31/2012
Plaintiff's 30-day Trial Period Ends	7/15/2012
Defendant's Pretrial Disclosures	7/30/2012
Defendant's 30-day Trial Period Ends	9/13/2012
Plaintiff's Rebuttal Disclosures	9/28/2012
Plaintiff's 15-day Rebuttal Period Ends	10/28/2012

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.

\*\*\*