

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Tdc

Mailed: May 20, 2014

Opposition No. 91205331 (Parent)
Opposition No. 91205338

Ms. Teresa H. Earnhardt

v.

Kerry Earnhardt, Inc.

Benjamin U. Okeke, Interlocutory Attorney:

Applicant's motion to compel, filed April 11, 2014, is **GRANTED** as conceded, because opposer failed to respond thereto.¹ Trademark Rule 2.127(a); *Central Mfg., Inc. v. Third Millennium Tech., Inc.*, 61 USPQ2d 1210 (TTAB 2001); *Boston Chicken, Inc. v. Boston Pizza Int'l, Inc.*, 53 USPQ2d 1053 (TTAB 1999).

Accordingly, opposer is ordered to serve no later than **THIRTY DAYS** from the mailing date of this order her responses, without objection on the merits, to applicant's second set of interrogatories and second request for production of documents. *See No Fear, Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000).

¹ The Board strongly disfavors obstinacy by opposers which force the filing of motions to compel, inasmuch as "[o]pposer brought this case and, in so doing, took responsibility for moving forward on the established schedule." *Atlanta-Fulton County Zoo, Inc. v. DePalma*, 45 USPQ2d 1858, 1860 (TTAB 1998). Any further dilatory conduct or "gamesmanship" exhibited by opposer may result in the entry of sanctions, including the entry of judgment in favor of applicant and dismissal of this opposition.

In the event opposer fails to respond to applicant's discovery requests as ordered herein, opposer may be subject to sanctions, potentially including entry of judgment against her. Trademark Rule 2.120(g); Fed. R. Civ. P. 37(b)(2).

Discovery, disclosure and trial dates are reset as follows:

Discovery Closes	6/3/2014
Plaintiff's Pretrial Disclosures	7/18/2014
Plaintiff's 30-day Trial Period Ends	9/1/2014
Defendant's Pretrial Disclosures	9/16/2014
Defendant's 30-day Trial Period Ends	10/31/2014
Plaintiff's Rebuttal Disclosures	11/15/2014
Plaintiff's 15-day Rebuttal Period Ends	12/15/2014

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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.