

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

RK

Mailed: September 2, 2014

Opposition No. **91207899**

PartyGaming IA Limited

v.

Yessenia Soffin

Yong Oh (Richard) Kim, Interlocutory Attorney:

This matter comes up on opposer's motion (filed April 15, 2014) to compel discovery. By way of its motion, opposer seeks 1) supplemental responses to its first set of interrogatories and document requests, 2) a signed verification page for applicant's interrogatory responses, 3) contact information for third party witnesses identified by applicant, 4) current residence information for applicant, and 5) potential dates for applicant's deposition. The motion is fully briefed.

The interrogatories and document requests at issue were served by opposer on June 13, 2013. As agreed by the parties, applicant served her responses to the discovery requests on March 14, 2014. Later that day, opposer notified applicant that the discovery responses appeared incomplete and further noted that applicant failed to provide deposition dates. On March 28, 2014, opposer detailed the deficiencies in a correspondence to

applicant and also noticed applicant's deposition for May 1, 2014. On April 8, 2014, opposer left a voicemail for applicant and followed up that day with an email seeking a meet and confer to discuss discovery. On April 14, 2014, opposer again emailed applicant concerning applicant's discovery responses. That evening, applicant emailed opposer and suggested conferencing on April 18, 2014 regarding the parties' discovery dispute. On April 15, 2014, opposer emailed applicant agreeing to confer on April 18, 2014. That same day and notwithstanding its consent to confer, opposer filed the present motion to compel.

A motion to compel must be supported by a written statement from the movant that such party, or its attorney, has made a good faith effort, by conference or correspondence, to resolve with the other party, or its attorney, the issues presented in its motion, and has been unable to reach agreement. *See* Trademark Rule 2.120(e)(1) and TBMP § 523.02. Here, despite applicant's period of non-responsiveness following service of her discovery responses, applicant ultimately responded to opposer's April 14, 2014 email that very evening and proposed to meet on April 18. Opposer consented to meet on April 18 yet filed the motion to compel on April 15, 2014, three days prior to the designated date of the meet and confer. That applicant failed to confer on April 18, 2014 is of no event in view of opposer's intervening motion to compel. As opposer did not and cannot certify that the parties have been unable to reach agreement despite best efforts to do so at the time it filed its

motion to compel, the motion is premature and is hereby **DENIED** pursuant to Trademark Rule 2.120(e)(1).

The parties are reminded of their mutual obligation to cooperate in the discovery process. Although applicant has, subsequent to the motion to compel, supplemented its discovery responses, opposer contends that there are discovery requests that remain in dispute in addition to applicant's failure to provide 1) a signed verification for its interrogatory responses, 2) deposition dates and residence information for applicant, and 3) contact information for third party witnesses. Accordingly, **the parties are hereby ordered to confer regarding these and any remaining discovery issues no later than SEPTEMBER 15, 2014.** In preparation for the meeting, the parties should stand ready to support their positions with relevant statutes and case law, as applicable. For any action agreed upon, the acting party is to provide a date certain for the completion of that action. If the parties remain unable to resolve their discovery dispute, a second and more narrowly defined motion to compel may be filed as to those requests that remain in dispute. Any future failure to cooperate (including failures to timely communicate) or to otherwise act in good faith in the discovery process by either party will be looked upon by the Board with extreme disfavor.

Dates are **RESET** as follows:

Expert Disclosures Due	10/15/2014
Discovery Closes	11/14/2014
Plaintiff's Pretrial Disclosures Due	12/29/2014
Plaintiff's 30-day Trial Period Ends	2/12/2015

Defendant's Pretrial Disclosures Due	2/27/2015
Defendant's 30-day Trial Period Ends	4/13/2015
Plaintiff's Rebuttal Disclosures Due	4/28/2015
Plaintiff's 15-day Rebuttal Period Ends	5/28/2015

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 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.

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