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

EJW

Mailed: March 16, 2016

Opposition No. 91211392
Opposition No. 91215884

Hallmark Licensing, LLC

v.

Hallmark Industries, Inc.

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On November 10, 2015, the Board allowed Applicant time to file a response to Opposer's second motion (filed June 22, 2015) to compel fully responsive initial disclosures. No response has been received. In view thereof, Opposer's second motion to compel is granted as conceded. *See* Trademark Rule 2.127(a). Accordingly, Applicant is **ORDERED** to provide supplementary initial disclosures to Opposer to the extent discussed below.

Opposer argues that Applicant's initial disclosures are "devoid of any actual document, data or things other than 'trademark applications and registrations,'" and that Applicant's vague statement that it "'retains business records … and other pertinent documents' neither meets the spirit nor the letter of TTAB Rule 401.02 or Fed. R. Civ. P. 26(a)."

Under Fed. R. Civ. P. 26(a)(1)(A)(i), Applicant was required to disclose "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 [Applicant] may use to support its claims or defenses …." Under Fed. R. Civ. P. 26(a)(1)(A)(ii), Applicant was also required to provide a copy "or a description by category and location" of documents, electronically stored information and tangible things it "may use to support its claims or defenses …." *Influence, Inc. v. Zuker*, 88 USPQ2d 1859, 1861 (TTAB 2008). In view thereof, although Applicant could have provided copies of the referenced documents,[1] Applicant's initial disclosures are sufficient insofar as they set forth a limited description of the documents related to these proceedings. Nonetheless, Applicant did not provide the telephone number of the identified witness, nor the location of Applicant's documents. In view thereof, Applicant is **ORDERED** to serve on Opposer's counsel within **FIFTEEN DAYS** of the mailing date of this order supplemental initial disclosures which provide the missing witness telephone number and location of the identified documents.

Should Applicant not comply with this order, Opposer may seek appropriate sanctions. *See* Trademark Rule 2.120(g); and TBMP §§ 411.05 and 527.01 (2015).

Proceedings Resumed; Trial Dates Reset

These proceedings are resumed. Trial dates are reset as shown in the following schedule:

[1] The most efficient means of making initial disclosures of documents, and the option the Board encourages parties to use, is to actually exchange copies of disclosed documents, rather than merely identifying their location. *Influence*, 88 USPQ2d at 1861 n.4. *See also* TBMP § 401.02 (2015).

Expert Disclosures Due	**5/30/2016**
Discovery Closes	**6/29/2016**
Plaintiff's Pretrial Disclosures Due	**8/13/2016**
Plaintiff's 30-day Trial Period Ends	**9/27/2016**
Defendant's Pretrial Disclosures Due	**10/12/2016**
Defendant's 30-day Trial Period Ends	**11/26/2016**
Plaintiff's Rebuttal Disclosures Due	**12/11/2016**
Plaintiff's 15-day Rebuttal Period Ends	**1/10/2017**

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. *See* Trademark Rule 2.125, 37 C.F.R. § 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b), 37 C.F.R. §§ 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129, 37 C.F.R. § 2.129.

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