

**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

Mailed: April 16, 2014

Opposition No. 91212653

Nautica Apparel, Inc.

v.

Majestique Corporation

Jennifer Krisp, Interlocutory Attorney:

On November 13, 2013 the Board suspended proceedings in this opposition pursuant to Trademark Rule 2.127(d) pending disposition of opposer's motion to strike filed on November 8, 2013.

On January 22, 2014, the Board issued its ruling on the motion to strike, resumed proceedings, and reset the deadline for the parties to hold their required discovery and settlement conference, and the opening of discovery, to February 21, 2014. In its January 22, 2014 order, the Board did not state that the parties had a time certain in which to serve responses to outstanding discovery because discovery had not yet opened when the Board issued its November 13, 2013 suspension order.

On February 17, 2014 opposer filed a motion to compel discovery. On February 19, 2014 applicant filed a motion to compel discovery. This

proceeding is now before the Board for consideration of the motions to compel.

By way of the substance of their respective motions to compel, the parties have brought to the Board's attention that during the period of suspension that the Board imposed in its November 13, 2013 order, the parties proceeded to engage in discovery. Specifically, the parties held their discovery and settlement conference on December 23, 2013, opposer served discovery requests on December 23, 2013, and applicant served discovery requests on December 20, 2013. Said discovery requests are at issue in the parties' respective motions to compel.

Inasmuch as the Board had suspended proceedings with respect to all matters not relevant to opposer's then-pending motion to strike, it was procedurally improper for the parties to proceed with discovery. Moreover, discovery had not yet opened at the time the Board suspended proceedings. Thus, the parties were obligated to wait until such time as the Board resumed proceedings and reset deadlines before serving initial disclosures and discovery.

Accordingly, inasmuch as the discovery requests at issue in both motions to compel were impermissibly served during the Board-imposed suspension period, the Board gives the motions no consideration. Furthermore, for the same reason, the Board declines to grant opposer's motion to compel as conceded.

Discovery is reset as indicated below. The parties may re-serve discovery, as appropriate, and must do so in accordance with Trademark Rule 2.120. From this point forward, any motion to compel discovery that is filed in this proceeding must be supported by a showing that the moving party made a sufficient good faith effort by conference or correspondence, *subsequent to the mailing date of the instant order*, to resolve the dispute(s) of which the moving party seeks the Board's resolution. See Trademark Rule 2.120(e)(1). See also *Hot Tamale Mama...and More, LLC v. SF Investments, Inc.*, 110 USPQ2d 1080 (TTAB 2014).

Proceedings are resumed, and discovery is open. Consistent with the schedule that is set forth in the Board's January 22, 2014 order, and the February 27, 2014 suspension order, discovery and trial dates are reset as indicated below.

Initial Disclosures Due	<b>5/16/2014</b>
Expert Disclosures Due	<b>10/13/2014</b>
Discovery Closes	<b>11/12/2014</b>
Plaintiff's Pretrial Disclosures due	<b>12/27/2014</b>
Plaintiff's 30-day Trial Period Ends	<b>2/10/2015</b>
Defendant's Pretrial Disclosures due	<b>2/25/2015</b>
Defendant's 30-day Trial Period Ends	<b>4/11/2015</b>
Plaintiff's Rebuttal Disclosures due	<b>4/26/2015</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>5/26/2015</b>

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

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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.