

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

Am

Mailed: November 4, 2014

Opposition No. 91214649

Noodle Time, Inc.

v.

Benny Hodge

Benjamin U. Okeke, Interlocutory Attorney:

On September 4, 2014, opposer filed a motion to compel responses to its discovery requests. Applicant did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a). Accordingly, the motion to compel is **GRANTED** as conceded. *See* Trademark Rule 2.127(a); TBMP § 502.04 (2014).

A party that fails to respond to interrogatories or document requests during the time allowed therefor, and that is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits. *See No Fear Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000); TBMP § 403.03.

Accordingly, applicant is directed to serve, within **THIRTY DAYS** of the mailing date of this order, supplemental responses to opposer's First Set of

Interrogatories and First Request for Production of Documents. Applicant must respond in full and without objection on the merits thereof inasmuch as applicant failed either to timely respond or to object to said discovery requests. *Id.*

In the event that applicant fails to serve full responses as ordered herein, opposer's remedy may lie in a motion for sanctions, as appropriate. *See* Trademark Rule 2.120(g)(1); TBMP § 411.05.

Proceedings are resumed. Discovery, disclosure and trial dates are reset as indicated below:

Discovery Closes	12/29/2014
Plaintiff's Pretrial Disclosures	2/12/2015
Plaintiff's 30-day Trial Period Ends	3/29/2015
Defendant's Pretrial Disclosures	4/13/2015
Defendant's 30-day Trial Period Ends	5/28/2015
Plaintiff's Rebuttal Disclosures	6/12/2015
Plaintiff's 15-day Rebuttal Period Ends	7/12/2015

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 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.