

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

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Mailed: December 4, 2014

Opposition No. 91215251

Opposition No. 91215253

Opposition No. 91215254

Hi Media SA

v.

iPay International SA

Cheryl S. Goodman, Administrative Trademark Judge:

On October 15, 2014, opposer filed a motion to compel discovery. Applicant did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a). The Board finds that opposer made a good faith effort to resolve the discovery dispute.

Opposer seeks an order directing applicant to respond to its First Set of Interrogatories and First Request for Production of Documents.

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 (2014).

The motion to compel is granted with regard to interrogatory request nos. 1-22.

The motion to compel is granted as to request for production nos. 1-39, 41-44.

Accordingly, applicant is directed to serve, within **thirty days** of the mailing date of this order, responses to these interrogatory and document requests without objection on the merits.

The motion to compel is denied as to request for production no. 40 inasmuch as a party is not required, in advance of trial, to disclose each document or other exhibit it plans to introduce. TBMP Section 414(7).

The motion to compel is denied as to request for production nos. 45-49 inasmuch as discovery requests which seek all evidence in support of allegations, denials or defenses are the equivalent of a request for identification of trial evidence prior to trial and are improper. *See Time Warner Entertainment Co. v. Jones*, 65 USPQ2d 1650, 1656 (TTAB 2002).

In summary, the motion to compel is granted as to interrogatory request nos. 1-22 and document request nos. 1-39, 41-44. The motion to compel is denied as to request for production nos. 40, 45-49.

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:

Expert Disclosures Due	1/30/2015
Discovery Closes	3/1/2015
Plaintiff's Pretrial Disclosures	4/15/2015
Plaintiff's 30-day Trial Period Ends	5/30/2015
Defendant's Pretrial Disclosures	6/14/2015
Defendant's 30-day Trial Period Ends	7/29/2015
Plaintiff's Rebuttal Disclosures	8/13/2015
Plaintiff's 15-day Rebuttal Period Ends	9/12/2015

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.