

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

mw/lg

Mailed: December 16, 2015

Opposition No. 91215512

Body Vibe International, LLC

v.

David Cox

**Denise M. DelGizzi,
Chief Clerk of the Board**

On October, 30, 2015, Opposer filed a motion to compel responses to discovery requests. The record showing no response by Applicant to Opposer's motion (filed October 30, 2015) to compel discovery, the motion is granted as conceded. See Trademark Rule 2.120(e) and 2.127(a).

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.

Applicant is permitted until **thirty days** from the mailing date of this order to provide complete responses to Opposer's interrogatories and document requests. Moreover, Applicant's responses must be made without objection because Applicant failed either to timely respond or to object to Opposer's discovery requests. *See No*

Fear Inc. v. Rule, 54 USPQ2d 1551 (TTAB 2000). Should Applicant fail to provide the ordered responses, Opposer's remedy will lie in a motion for entry of sanctions, in the form of entry of judgment sustaining the opposition. See Trademark Rule 2.120(g).

Proceedings are hereby resumed and dates are reset as indicated below:

Discovery Closes	1/13/2016
Plaintiff's Pretrial Disclosures	2/27/2016
Plaintiff's 30-day Trial Period Ends	4/12/2016
Defendant's Pretrial Disclosures	4/27/2016
Defendant's 30-day Trial Period Ends	6/11/2016
Plaintiff's Rebuttal Disclosures	6/26/2016

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.