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: June 12, 2015

Opposition No. 91217154

Nasty Pig, Inc.

v.

Janoskians LLC

Ann Linnehan, Interlocutory Attorney

This case now comes up for consideration of Opposer's fully-briefed motion (filed March 23, 2015) to compel discovery.

The Board has carefully reviewed the parties' respective arguments for the pending motion, although the Board has not repeated the parties' arguments in this order.

As a preliminary matter, the Board finds that Opposer has shown that it made a good faith effort pursuant to Trademark Rule 2.120(e)(1), to resolve with Applicant the issues presented in the motion prior to seeking Board intervention.[1] Specifically, the Board observes that Opposer substantially pared down its interrogatories following its telephone conversation with Applicant. Applicant's continued objection is indicative of an issue now requiring Board intervention.

[1] Applicant's request that it be allowed to respond substantively to the motion in the event the Board finds that Opposer has demonstrated its good faith effort to resolve the issue between the parties is denied. No further papers will be considered, including surreply briefs. Trademark Rule 2.127(a).

Applicant served a general objection to Opposer's disputed discovery requests on the ground that the number of interrogatories served by Opposer exceeds the limit of seventy-five imposed by Trademark Rule 2.120(d)(1).

When determining the number of interrogatories, Trademark Rule 2.120(d)(1) requires that each numbered subpart must be counted separately regardless of whether the subpart is separately designated. See *Pyttronic Industries, Inc. v. Terk Technologies Corp.*, 16 USPQ2d 2055 (TTAB 1990). Further, compound questions seeking separate information but not set forth separately will be broken down by the Board and counted as separate interrogatories. See Calcagno, Tips From the TTAB: Discovery Practice Under Trademark Rule 2.120(d)(1), 80 TMR 285(1990).

Applying the above guidelines to Opposer's amended first set of interrogatories, the Board finds that the interrogatories do not exceed the limitation imposed by Trademark Rule 2.120(d)(1). Applicant must answer the amended first set of interrogatories within the time allowed in this order.

The motion to compel is hereby granted.

Within **thirty days** from the mailing date set forth in the above caption Applicant must serve full and complete responsive answers to Opposer's amended first set of interrogatories, failing which Opposer may move for sanctions, including judgment, pursuant to Trademark Rule 2.120(g).

Both parties are reminded that they have a duty to make a good faith effort to satisfy each other's discovery needs. See Fed. R. Civ. P. 26(g). The parties are

further reminded that a party which has responded to a discovery request has a duty to supplement or correct that response. See Fed. R. Civ. P. 26(e). They are also reminded that, when a party, without substantial justification, fails to disclose information required, or fails to amend or supplement a prior response, as required, that party may be prohibited from using as evidence the information not so disclosed. See Fed. R. Civ. P. 37(c)(1).

Proceedings are resumed. Dates are reset as follows:

Expert Disclosures Due	**7/29/2015**
Discovery Closes	**8/28/2015**
Plaintiff's Pretrial Disclosures Due	**10/12/2015**
Plaintiff's 30-day Trial Period Ends	**11/26/2015**
Defendant's Pretrial Disclosures Due	**12/11/2015**
Defendant's 30-day Trial Period Ends	**1/25/2016**
Plaintiff's Rebuttal Disclosures Due	**2/9/2016**
Plaintiff's 15-day Rebuttal Period Ends	**3/10/2016**

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.l25.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.l29.