UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Mailed: October 21, 2015

Opposition No. 91217154

Nasty Pig, Inc.

v.

Janoskians LLC

Ann Linnehan, Attorney

This case now comes up for consideration of Applicant's motion (filed October 12, 2015) to compel.

The Board finds that Applicant has not satisfied its obligation under Trademark Rule 2.120(e) to make a good faith effort to resolve the discovery dispute herein prior to seeking the Board's intervention in light of the large volume of outstanding discovery issues addressed by the motion and the apparent failure of the parties to actually meet and confer. One letter does not satisfy Applicant's obligation in this regard. Applicant's argument that "any further communications" between the parties is somehow "moot" because Opposer stated (in its response to Applicant's deficiency letter) that Opposer's letter "is a response 'in detail' to the deficiency…" is not well taken. Opposer's Brief pg. 2.

Opposer is reminded that the purpose of discovery is to advance the case so that it may proceed in an orderly manner within reasonable time constraints. To

this end, the parties must adhere to the strictures set forth in *Sentrol, Inc. v. Sentex Systems, Inc.*, 231 USPQ 666 (TTAB 1986), and repeated below:

> [E]ach party and its attorney has a duty not only to make a good faith effort to satisfy the discovery needs of its opponent but also to make a good faith effort to seek only such discovery as is proper and relevant to the specific issues involved in the case. Moreover, where the parties disagree as to the propriety of certain requests for discovery, they are under an obligation to get together and attempt in good faith to resolve their differences and to present to the Board for resolution only those remaining requests for discovery, if any, upon which they have been unable, despite their best efforts, to reach an agreement. Inasmuch as the Board has neither the time nor the personnel to handle motions to compel involving substantial numbers of requests for discovery which require tedious examination, it is generally the policy of the Board to intervene in disputes concerning discovery, by determining motions to compel, only where it is clear that the parties have in fact followed the aforesaid process and have narrowed the amount of disputed requests for discovery, if any, down to a reasonable number.

Accordingly, Applicant's motion to compel is denied without prejudice.

In consequence of the above, the parties are directed to work together to resolve their discovery problems, in the spirit of good faith and cooperation which is required of all litigants in Board proceedings. The Board believes that the parties should be able to resolve most, if not all, of the discovery disputes identified in the current motion. In particular, no motion to compel should be filed unless the parties are truly unable, after making their best efforts, to work out mutually acceptable solutions to their discovery problems without the Board's help.

Proceedings are suspended for full briefing (if necessary) and consideration of the motion for leave to amend. The motion for leave to amend will be decided in due course.