

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

RK/jmw

Mailed: March 24, 2016

Opposition No. **91222065**

*Google Inc.*¹

v.

Jawad Essadki

Yong Oh (Richard) Kim, Interlocutory Attorney:

On February 5, 2016, Opposer filed a motion to compel discovery and to test the sufficiency of Applicant's responses to Opposer's Requests for Admission. Pursuant to Trademark Rules 2.119(c) and 2.127(a), Applicant's response to the motion was due no later than February 25, 2016.²

On March 4, 2016, Applicant filed a putative response to the motion. However, Applicant failed to set forth any circumstances to demonstrate the necessary excusable neglect to reopen his time to respond to the motion. *See* Fed. R. Civ. P. 6(b)(1)(B). In view thereof, Applicant's filing is untimely and has been given no consideration. Opposer's motion is therefore **GRANTED as conceded**. Trademark Rule 2.127(a).

¹ Opposer's change of correspondence (filed March 2, 2016) has been noted and entered.

² Aside from a statement that the motion to compel "was served via U.S. Mail," the particular method of service, e.g., first-class mail, is not apparent in Opposer's certificate of service. Opposer is advised to specify the method of service in the certificate of service for all future filings. For purposes of this order, the Board has presumed service by one of the qualifying methods under Trademark Rule 2.119(c).

Applicant is hereby ordered to serve, without objection on the merits,³ complete responses to Interrogatory Nos. 1, 3-7, 9, and 13-15, and to fully respond to Opposer's first set of Requests for Production.⁴ Applicant is further ordered to serve, without objection on the merits, amended responses to Opposer's Requests for Admission Nos. 30, 31, and 33-36, failing which those requests may be deemed admitted.⁵ Applicant's responses are due no later than **APRIL 25, 2016**.

Dates are **RESET** as follows:

Discovery Closes	5/23/2016
Plaintiff's Pretrial Disclosures Due	7/7/2016
Plaintiff's 30-day Trial Period Ends	8/21/2016
Defendant's Pretrial Disclosures Due	9/5/2016

³ "Objections going to the merits of a discovery request include those which challenge the request as overly broad, unduly vague and ambiguous, burdensome and oppressive, as seeking non-discoverable information on expert witnesses, or as not calculated to lead to the discovery of admissible evidence. In contrast, claims that information sought by a discovery request is trade secret, business-sensitive or otherwise confidential, is subject to attorney-client or a like privilege, or comprises attorney work product, goes not to the merits of the request but to a characteristic or attribute of the responsive information." *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1554 (TTAB 2000). Applicant is reminded that the parties may not withhold properly discoverable information on the basis of confidentiality since the terms of the Board's standard protective order automatically apply. Furthermore, the party seeking to designate information as confidential, highly confidential or trade secret has a duty to make a meaningful effort to designate only that information that warrants the designated level of protection.

⁴ A proper response to a request for production of documents and things should state whether or not there are responsive documents and, if so, whether they will be produced or withheld on a claim of privilege. For any documents withheld on a claim of privilege, Applicant must also produce a privilege log identifying the document withheld, the nature of the privilege/protection claimed, the name of the person making/receiving the communication, the date and place of the communication, and the document's general subject matter. *See* Fed. R. Civ. P. 26(b)(5)(A).

⁵ An answer to a request for admission must admit the matter of which an admission is requested, deny the matter, or state in detail the reasons why the responding party cannot truthfully admit or deny the matter. The responding party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

Defendant's 30-day Trial Period Ends	10/20/2016
Plaintiff's Rebuttal Disclosures Due	11/4/2016
Plaintiff's 15-day Rebuttal Period Ends	12/4/2016

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 taking of testimony. Trademark Rule 2.125.

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 2.129.

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