

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: February 3, 2009  
Cancellation No. 92049567  
Grape Technology Group, Inc.

v.

Warwick Mirzikinian

**Robert H. Coggins,  
Interlocutory Attorney:**

This case now comes up on petitioner's motion (filed December 15, 2008) to compel initial disclosures and for sanctions. The record shows no response by respondent thereto. Accordingly, the motion is granted as conceded to the extent modified herein. Trademark Rules 2.120(e)(1) and 2.127(a).

Initial Disclosures

To the extent petitioner's motion seeks respondent's initial disclosures, the motion is granted. Respondent Warwick Mirzikinian is allowed until **thirty days** from the mailing date of this order to provide its initial disclosures to petitioner. In addition, respondent may not serve any discovery requests until it complies with this order. Trademark Rule 2.120(a)(3). Should respondent fail to provide the ordered disclosures, petitioner'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).

Interrogatories and Document Requests

To the extent petitioner's motion seeks respondent's responses to interrogatories and document requests, the motion is granted. Respondent Warwick Mirzikinian is permitted until **thirty days** from the mailing date of this order to provide complete responses to petitioner's interrogatories and document requests. Moreover, respondent's responses must be made without objection because respondent failed either to timely respond or to object to petitioner's discovery requests. *See No Fear Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000). Should respondent fail to provide the ordered responses, then petitioner'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)*.

Sanctions

To the extent petitioner's motion seeks any other sanctions against respondent, the motion is denied. *See Kairos Institute of Sound Healing, LLC v. Doolittle Gardens, LLC*, 88 USPQ2d 1541 (TTAB 2008) (sanctions not available under Trademark Rule 2.120(g)(1) unless a Board order has been violated, and sanctions not available under Trademark Rule 2.120(g)(2) unless party expressly states it will not provide disclosures or responses to discovery). As noted *supra*, petitioner may file a motion for entry of sanctions if respondent fails to comply with this order or if respondent affirmatively states that disclosures will not be made.

Schedule

Proceedings are resumed. Discovery, trial, and other dates are reset as follows.

Defendant's Initial Disclosures Due	<b>Thirty Days</b>
Expert Disclosures Due	<b>4/17/2009</b>
Discovery Closes	<b>5/17/2009</b>
Plaintiff's Pretrial Disclosures	<b>7/1/2009</b>
Plaintiff's 30-day Trial Period Ends	<b>8/15/2009</b>
Defendant's Pretrial Disclosures	<b>8/30/2009</b>
Defendant's 30-day Trial Period Ends	<b>10/14/2009</b>
Plaintiff's Rebuttal Disclosures	<b>10/29/2009</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>11/28/2009</b>

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.

**NEWS FROM THE TTAB:**

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 Fed.Reg. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:  
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>  
[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:  
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>