

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

Mailed: February 1, 2013

Cancellation No. 92055406

Jonathan K. Smith

v.

Reginald C. Barrett

**M. Catherine Faint,
Interlocutory Attorney:**

This case now comes up on petitioner's motion, filed November 29, 2012, to compel more complete responses to petitioner's Interrogatory Nos. 3 and 7. Respondent has not responded to the motion.

In his motion, petitioner alleges that he timely served respondent with his First Set of Interrogatories on August 13, 2012, and respondent served his responses on October 9, 2012. Petitioner alleges he sent a demand letter that respondent supplement his answers, and respondent served his supplemental responses on October 25, 2012. Petitioner

included copies of respondent's answers and supplemental answers to the first set of interrogatories.¹

First, the Board notes that the motion does not include a copy of the discovery requests or the correspondence regarding deficiencies, including any certificates of service, and does not show any attempt by petitioner to communicate with respondent regarding the alleged deficiencies of the October 25, 2012 supplemental responses.

Trademark Rule 2.120(e) requires that a motion to compel include a copy of the interrogatory with any answer or objection that was made, and a written statement from the moving party that a good faith effort has been made to resolve the issues presented in the motion to compel prior to filing with the Board.

Petitioner has not complied with the Rule. In view thereof, petitioner's motion to compel is denied.

Second, even if petitioner is able to provide the required copies and statement of good faith effort, the Board will not accept a renewed motion to compel because neither respondent's alleged criminal history, nor which computer applications are used by respondent, is relevant to issues of trademark registrability. See Trademark Act

¹ Respondent should note that the Board prefers the responding party to reproduce each interrogatory immediately preceding the answer or objection thereto. See TBMP § 405.04(b) (3d ed. rev. 2012).

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Sections 17, 18, 20, and 24, 15 U.S.C. Sections 1067, 1068, 1070, and 1092.

Proceedings are resumed, discovery, disclosure and trial dates are reset as indicated below.

Expert Disclosures Due	3/7/2013
Discovery Closes	4/6/2013
Plaintiff's Pretrial Disclosures Due	5/21/2013
Plaintiff's 30-day Trial Period Ends	7/5/2013
Defendant's Pretrial Disclosures Due	7/20/2013
Defendant's 30-day Trial Period Ends	9/3/2013
Plaintiff's Rebuttal Disclosures Due	9/18/2013
Plaintiff's 15-day Rebuttal Period Ends	10/18/2013

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.
