

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: May 5, 2015

Cancellation No. 92056509

Autodesk, Inc.

v.

3D Systems, Inc.

**George C. Pologeorgis,
Interlocutory Attorney:**

This cancellation proceeding now comes before the Board for consideration of the following pending motions:

1. Respondent's motion (filed November 29, 2014) for partial reconsideration of the Board's October 30, 2014, discovery order;
2. Respondent's motion (filed December 13, 2014) to compel oral depositions;
3. Respondent's motion (filed December 13, 2014) to compel written discovery and to extend the close of discovery; and
4. Petitioner's motion (filed December 12, 2014) to compel written discovery and discovery depositions.

All the aforementioned motions are fully briefed.

The Board has considered the parties' submissions with regard to the aforementioned motions, presumes the parties' familiarity with the facts and arguments therein, and does not recount the facts or arguments in their entirety here.

Respondent's Motion for Partial Reconsideration

The Board first turns to Respondent's motion for partial reconsideration of the Board's October 30, 2014, discovery order. By way of its motion, Respondent argues that the Board erred (1) in finding that Petitioner demonstrated a good faith effort to resolve the parties' discovery dispute prior to seeking Board intervention by way of its motion to compel; (2) in ordering Respondent to produce documents and information concerning marks not at issue in this proceeding; (3) in ordering Respondent, a publicly-traded company to produce marketing plans and projections for its use of its 3DS marks; (4) in ordering Respondent to produce documents pertaining to the quality of Respondent's 3DS goods and services; and (5) by misapprehending Respondent's agreement to supplement certain discovery responses.

The premise underlying a request for reconsideration is that, based on the evidence of record and the prevailing authorities, the Board erred in reaching the decision it issued. *See* TBMP § 518 and authorities cited therein. The request may not be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in the requesting party's brief on the case. *See Amoco Oil Co. v. Amerco, Inc.*, 201 USPQ 126 (TTAB 1978). Rather, the request normally should be limited to a demonstration that, based on the evidence properly of record and the applicable law, the Board's ruling is in error and requires appropriate change. *See Steiger Tractor Inc. v. Steiner Corp.*, 221 USPQ 165 (TTAB 1984), *different results reached on reh'g*, 3 USPQ2d 1708 (TTAB 1984).

In this instance, Respondent, in its motions for partial reconsideration, sets forth essentially the same arguments it provided in opposition to Petitioner's motion to compel filed on August 7, 2014. As noted above, a motion for reconsideration should not be employed to introduce new evidence or reargue points already presented. On this ground alone, Respondent's motion for partial reconsideration is **DENIED**.

Notwithstanding the foregoing and in the interest of thoroughness, the Board makes the following clarifications and determinations:

Petitioner's Good Faith Efforts to Resolve Discovery Dispute Prior to Filing Motion to Compel

Respondent continues to argue that Petitioner did not demonstrate a good faith effort to resolve the parties' discovery disputes prior to seeking Board intervention. Specifically, Respondent maintains that, although the parties had discussions about the sufficiency of Respondent's discovery responses in May 2014, Respondent nonetheless produced documents responsive to Petitioner's written discovery in June 2014, but Petitioner failed to contact Respondent prior to filing its motion to compel to advise that its production remained deficient.

The Board finds Respondent's arguments unpersuasive. The record clearly demonstrates that Petitioner's counsel sent a detailed letter to Respondent's counsel on March 28, 2014 highlighting the deficiencies of Respondent's responses and objections. The record also demonstrates that the parties met and conferred via telephone to discuss these deficiencies on May 2 and May 5, 2014, during which Respondent's counsel withdrew certain objections to Petitioner's discovery requests, agreed to supplement or amend certain discovery responses, maintained certain

Cancellation No. 92056509

objections and agreed to produce documents. The record also shows that, on June 18, 2014, Petitioner's counsel sent another letter to Respondent's counsel memorializing the key points regarding Respondent's discovery responses and objections, among other things, as discussed during the May 2nd and 5th meet and confer telephone conferences. Respondent did not give any indication that it disagreed with Petitioner's June 18, 2014, letter, including the parties' respective positions on unresolvable issues. The June 18, 2014, letter clearly indicates that Respondent maintained all the objections it subsequently set forth in its response to Petitioner's motion to compel. Finally, and more importantly, Respondent fails to state that its June 11, 2014 production resolved the discovery dispute concerning its responses to Petitioner's written discovery. In fact, Respondent did not, and has not, changed its position on any of the unresolvable issues identified in the June 18, 2014, letter as demonstrated by its response to Petitioner's motion to compel, as well as its motion for partial reconsideration.

In view of the foregoing, the Board's determination that Petitioner made a good faith effort to resolve the parties' dispute prior to filing its motion to compel was not in error.

Respondent's Other 3DS Marks

Respondent's general objections Nos. 8 and 9 concern Petitioner's definition of the term "3DS" in Petitioner's written discovery. Essentially, Respondent objects to Petitioner's definition on the ground that it is not required to respond to any discovery that does not concern its subject mark, as identified in its subject registration.

Cancellation No. 92056509

The Board disagrees. While the Board recognizes that a party need not provide discovery with respect to those of its marks and goods and/or services that are not involved in the proceeding and have *no relevance thereto*, see TBMP § 414(11) (emphasis added), the Board finds that, in this instance, Respondent's use of the term 3DS alone or in combination with other wording and/or designs used in connection with goods and services similar to those identified in Respondent's subject registration is relevant to the issues concerning Petitioner's asserted claim of likelihood of confusion. In particular, such information may be relevant to the issue of whether Petitioner's goods and Respondent's goods and services travel in the same trade channels, whether the parties' respective goods are directed to the same class of purchasers, or even issues regarding the market interface between Respondent and Petitioner. Additionally, Respondent's use of other 3DS formative marks may be relevant to the issue of whether Respondent intended to associate itself with Petitioner and Petitioner's pleaded 3DS MAX mark. Finally, for clarification purposes, the Board's October 30, 2014, order is limited to those 3DS marks used by Respondent and not any third-party, except to the extent that Petitioner has propounded discovery regarding Respondent's awareness of any third-party use of a 3DS mark.

In view of the foregoing, the Board's determination to overrule Respondent's General Objection Nos. 8 and 9 and to require Respondent to provide information or produce documents regarding its use of the phrase 3DS alone or in combination with other wording was not in error.

Efforts to Promote or Expand Consumer Awareness of Respondent's 3DS goods and services

The Board clearly set forth in its October 30, 2014, discovery order that discovery regarding a party's plans for expansion may be discoverable under a protective order. Respondent's arguments that it is a publicly-traded company and may have responsive documents that have not been made public do not obviate Respondent's obligations to produce discoverable information. As Respondent is fully aware, the Board's standard protective order has been automatically imposed on this proceeding. Therefore, to the extent any responsive, non-privileged information and/or documents regarding Respondent's marketing plans and/or Respondent's efforts or plans to promote or expand consumer awareness of its 3DS mark and the goods and services provided thereunder exist, i.e., Interrogatory No. 14 and Document Request Nos. 9 and 12, Respondent must produce such documents and/or provide such information under the appropriate tier of confidentiality, e.g., for Attorneys Eyes Only, notwithstanding their confidential nature.

Discovery Regarding the Quality of Respondent's 3DS Goods and Services

Contrary to Respondent's objections, the Board finds that information and/or documents regarding any studies, test, rating, or surveys relating to the quality of Respondent's 3DS products and services is relevant to the issue of Petitioner's damages. Specifically, if it is determined that Respondent's 3DS and cube design mark is confusingly similar to Petitioner's pleaded 3DS MAX mark and Respondent provides poor quality goods and/or services under its 3DS mark, consumers may believe that such poor quality goods or services are associated with Petitioner which could

Cancellation No. 92056509

potentially harm Petitioner's reputation and good will. In view thereof, the Board did not err in (1) compelling Respondent to produce documents and/or provide information regarding the testing, rating or surveying of the quality of Respondent's 3DS products and services, and (2) overruling Respondent's objections that this request was overly broad and unduly burdensome or that the information is not reasonably calculated to lead to the discovery of admissible information.

Respondent's Agreement to Supplement its Responses to Certain Discovery Requests

As noted above, the record reflects that, on June 18, 2014, Petitioner's counsel sent a letter to Respondent's counsel memorializing, among other things, the key points regarding Respondent's discovery responses and objections, as discussed during the May 2nd and 5th meet and confer telephone conferences. The letter specifically states, *inter alia*, that Respondent (1) would supplement its responses to Petitioner's Interrogatory No. 3, (2) would review and consider documents responsive to Document Request No. 28 (all investigations conducted by Respondent or on Respondent's behalf in connection with the availability, registrability, or use of the mark 3DS) on a case-by-case basis, and (3) would formulate a final response to Document Request No. 31 (all documents relating to studies, test, ratings, or surveys in connection with consumer recognition of any 3DS product or service) once Petitioner has reviewed Respondent's document production. The record also demonstrates that Respondent never contested the accurateness of the June 18, 2014, letter. If Respondent disagreed with the summary set forth in the letter, it should have advised Petitioner. Respondent, however, did not do so. It was

Cancellation No. 92056509

therefore reasonable for Petitioner to assume that the June 2014, letter was accurate. Notwithstanding, it is clear from the June 18, 2014, letter that Respondent agreed to supplement its response to Interrogatory No. 3. With respect to Document Request Nos. 28 and 31, as reflected by the June 18, 2014, letter, Respondent indicated that it had not come to a final decision on these requests. Respondent, however, was under an obligation to supplement such responses when it did finalize its position. With respect to Interrogatory Nos. 1, 4 and 5, Petitioner, in response to Respondent's motion for partial reconsideration, argues that the June 18, 2014, letter indicates that Respondent verbally clarified its responses to these interrogatory and agreed to supplement its written responses to reflect these clarifications. The Board notes that Respondent does not contest this characterization in its reply brief in support of its motion for partial reconsideration. Even if the Board did not compel supplemental responses to these requests on the ground that Respondent had agreed to provide supplementation, the Board nonetheless finds that responses to these requests are relevant to the issues in the proceeding. In view thereof, the Board did not err in compelling Respondent to supplement its responses to Interrogatory Nos., 1, 3, 4 and 5 and Document Request Nos. 28 and 31.

For the reasons discussed above, Respondent's motion for partial reconsideration is **DENIED** in its entirety. The Board's October 30, 2014, discovery order stands as

issued. Respondent is allowed until **thirty (30) days** from the mailing date of this order in which to comply fully with the Board's October 30, 2014, discovery order.¹

Petitioner's Motion to Compel Written Discovery and Discovery Depositions

The Board next turns to Petitioner's motion to compel. By way of its motion, Petitioner seeks (1) to compel production of documents ordered to be produced by the Board's October 30, 2014, discovery order; (2) to compel Respondent to supplement its production of documents produced on November 29, 2014 that contain alleged technical deficiencies, i.e., certain emails produced which do not contain Respondent's logos and other email communications that are missing substantial text, and (3) to compel the discovery depositions of James Hopeck, Cathy Lewis and Respondent's 30(b)(6) witness.

Inasmuch as the Board has denied Respondent's motion for partial reconsideration and has ordered Respondent to comply fully with the Board's October 30, 2014, discovery order, Petitioner's motion to compel documents pursuant to that discovery order is deemed moot and will be given no further consideration.

With regard to Petitioner's request that Respondent supplement the documents produced by Respondent on November 29, 2014, Petitioner's request is **DENIED without prejudice**. The record demonstrates that on December 8, 2014 Petitioner's counsel emailed Respondent's counsel of the deficiencies in

¹ To the extent that Respondent's complete compliance with any discovery response compelled by the Board's October 30, 2014, order would be unduly burdensome, Respondent may provide a representative sampling of the information/documents sought. Respondent, however, must nonetheless provide sufficient information/documents to meet Petitioner's discovery needs.

Cancellation No. 92056509

Respondent's November 29, 2014, production, as described above, but filed its motion to compel only four days later without waiting for a response from Respondent's counsel.

In view of the foregoing, the Board finds that Petitioner has failed to demonstrate a good faith effort to resolve the discovery dispute prior to seeking Board intervention regarding this particular issue. See Trademark Rule 2.120(e).

Finally, Petitioner's motion to compel the discovery depositions of James Hopeck, Cathy Lewis and Respondent's 30(b)(6) witness is **GRANTED**. Respondent must produce the aforementioned witnesses no later than 30 days from the date of the certificate of service of documents and/or information compelled by this order, i.e., full compliance with the Board's October 30, 2014, discovery order.

Respondent's Motion to Compel Written Discovery

The Board next turns to Respondent's motion to compel written discovery. By way of its motion, Respondent seeks to compel (1) production of documents and information concerning Petitioner's knowledge and use of the term "3ds" as a file extension. i.e., Interrogatory Requests Nos. 26 and 27 and Document Request Nos. 12, 46, and 49; (2) production of all relevant documents to Respondent's first and second sets of Requests for Production to which Petitioner agreed to produce, namely, Document Request Nos. 7, 9, 10, 14, 15, 17, 48, 50, 51 and 52; (3) a sufficient privilege log.

In response to the motion, Petitioner maintains that information regarding the term "3ds" as a file extension is not relevant to the issues in the case. Additionally,

Cancellation No. 92056509

Petitioner contends that it has fulfilled its obligations regarding Respondent's first and second sets of Requests for Production of documents by producing responsive documents to these requests on January 2, 2015. Finally, Petitioner maintains that it has now provided Respondent an amended privilege log.

In reply, Respondent maintains that information and documents regarding the use of the term "3ds" as a file extension is relevant to Petitioner's claim of likelihood of confusion. With regard to Petitioner's January 2, 2015, production, Respondent contends that it has not had the opportunity to review fully the documents produced in order to ascertain whether the documents satisfy Respondent's written discovery. As for the privilege log, Respondent further contends that the amended privilege log produced by Petitioner resolves the dispute regarding the privilege log.

Because Respondent is satisfied with Petitioner's amended privilege log, Respondent's motion to compel with regard to the privilege log is deemed moot and will be given no further consideration.

With regard to compelling documents responsive to Document Request Nos. 7, 9, 10, 14, 15, 17, 48, 50, 51 and 52, the Board notes that Respondent has affirmatively stated that it has not yet had an opportunity to review the documents produced by Petitioner on January 2, 2015 to ascertain whether or not this supplemental production satisfies Respondent's discovery needs with regard to the aforementioned discovery requests. Accordingly, Respondent's motion to compel production of these documents is deemed premature and is therefore **DENIED without prejudice.**

Finally, with regard to the written discovery concerning the use of the term “3ds” as a file extension, the Board agrees with Respondent that such information is relevant to the issues in this proceeding. Specifically, the Board finds that such information is relevant to the issue regarding the inherent distinctiveness and/or strength of Petitioner’s pleaded 3DS MAX mark.

In view thereof, Respondent’s motion to compel is **GRANTED** to the extent Petitioner is allowed until **thirty (30) days** from the mailing date of this order to (1) provide full and complete responses to Respondent’s Interrogatory Request Nos. 26 and 27, and (2) produce non-privileged documents responsive to Respondent’s Document Request Nos. 12, 26, and 49.²

Respondent’s Motion to Compel Depositions On Oral Examination

Finally, the Board turns to Respondent’s motion to compel the discovery depositions of Maurice Patel and Chris Young, as well as Petitioner’s noticed 30(b)(6) witness, on oral examination.

In support of its motion, Respondent contends that although Messrs. Patel and Young were identified in Petitioner’s initial disclosures as persons with discoverable information, Petitioner only recently informed Respondent that these individuals, both current employees of Petitioner, are residents of Canada and that their discovery depositions must be taken upon written questions. Respondent also contends that Petitioner has taken the position that many, if not all, of the witnesses that Petitioner will designate as 30(b)(6) witnesses are located outside the United States and, as such,

² To the extent Respondent’s motion seeks to compel responses to Respondent’s Admission Request Nos. 1, 2, and 47, the Board has given no consideration to such a request because the motion to compel procedure is not applicable to requests for admission. *See* TBMP § 523.01.

Cancellation No. 92056509

most, if not all, of the noticed 30(b)(6) depositions will need to take place on written questions. Further, Respondent maintains that Petitioner claims a willingness to make its foreign witnesses available for live testimony at trial, when it benefits Petitioner, but “manipulates” Board rules to prevent Respondent from the benefit of depositions on oral examination.

Respondent further argues that since all of Petitioner’s key witnesses allegedly reside and work in Canada, it would severely prejudice Respondent in its ability to obtain discovery if Respondent was forced to conduct all of the depositions on issues central to this proceeding by written questions. Moreover, Respondent contends that requiring Respondent to take the discovery depositions of Petitioner’s key witnesses on written question will not allow Respondent the opportunity for follow-up questioning, nor will counsel be present to rephrase a question in an effort to resolve any potential confusion the witnesses may have with a written question, or to address a legitimate objection raised.

The Board first turns to the portion of Respondent’s motion that concerns Maurice Patel and Chris Young. To that end, the Board notes that Trademark Rule 2.120(c)(1) provides:

The discovery deposition of a natural person residing in a foreign country who is a party or who, at the time set for the taking of the deposition, is an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, shall, if taken in a foreign country be taken in the manner prescribed by § 2.124 unless the Trademark Trial and Appeal Board, upon motion for good cause, orders or the parties stipulate, that the deposition be taken by oral examination.

(emphasis added). Trademark Rule 2.124, in turn, sets forth the procedure for taking depositions upon written questions.

Cancellation No. 92056509

The issue before the Board, therefore, is whether Respondent has established the requisite good cause for taking the discovery depositions of Maurice Patel and Chris Young orally, rather than upon written questions.

Initially, the Board does not believe that Respondent's disputed assertions regarding convenience, speed and cost meet the applicable standard. Not only does Petitioner dispute these assertions, but such claims could be made in virtually every Board proceeding involving foreign party witnesses. If these assertions constituted good cause, then the exception allowing oral depositions of foreign party witnesses only upon a showing of good cause would swallow Trademark Rule 2.120(c)(1). For essentially the same reason, the Board does not believe that Messrs. Patel's and Young's importance as a witness, without more, constitutes good cause. The discovery depositions of individuals identified in an opposing party's initial disclosures are important to most Board proceedings, and if a party's discovery testimony, by itself, constituted good cause, then good cause could be shown in most Board proceedings. Trademark Rule 2.120 (c)(1) makes clear that "good cause" should be the exception, not the rule.

Furthermore, the cases upon which Respondent relies in support of its motion are readily distinguishable. First, in *Orion Group Inc. v. Orion Insurance Co. P.L.C.*, 12 USPQ2d 1923 (TTAB 1989), the applicant filed a motion for summary judgment supported only by the affidavit of its secretary, who was based in England. In response, the opposer filed a motion to take discovery under Fed. R. Civ. P. 56(f), including the oral discovery deposition of the secretary. The Board

Cancellation No. 92056509

found good cause for taking the deposition orally, because the secretary's affidavit was the sole evidentiary support for applicant's motion, the facts contained in the affidavit related to a complex and highly specialized business and the deposition "would not involve problems of translating to and from a foreign language." *Id.* at 1926.

In this case, by contrast, there is no pending potentially dispositive motion, much less one supported only by the written declaration of a single foreign party witness.

Moreover, Respondent's reliance on *Century 21 Real Estate Corp. v. Century Life*, 15 USPQ2d 1079 (TTAB 1990) is also misplaced. This case involved a witness in the U.S., not a foreign party witness, and therefore Trademark Rule 2.120(c)(1) was not implicated or considered.

In view of the foregoing, the Board finds that Respondent has failed to establish the requisite good cause for taking the discovery depositions of Maurice Patel and Chris Young orally, rather than upon written questions. Accordingly, Respondent's motion to compel the oral depositions of Maurice Patel and/or Chris Young in the United States³ or Canada is **DENIED**.⁴

Notwithstanding the foregoing and in the interest of fairness based on the particular circumstances of this case, the Board **will give no consideration** to any

³ The Board will not order a party residing in a foreign country to come to the United States for the taking of his or her discovery deposition. *See Jain v. Ramparts Inc.*, 49 USPQ2d 1429 (TTAB 1998); TBMP § 404.03(b).

⁴ It is not too late for the parties to reconsider their positions, or to stipulate to one of the many possible options for conducting the depositions orally, in a manner which will benefit both parties and prejudice neither.

trial testimony by any witness of Petitioner resulting from oral examination in the United States, unless the witness has been made available in the United States to Respondent for a discovery deposition.

The Board next turns to the portion of Respondent's motion which seeks to compel the oral deposition of Petitioner's designated 30(b)(6) witness.

An organization served with a Fed. R. Civ. P. 30(b)(6) notice of deposition has an obligation not only to pick and produce persons that have knowledge of the subject matter identified in the notice,⁵ but also to prepare those persons so that they can give complete, knowledgeable, and binding answers as to matters known or reasonably available to the organization. *See A&E Products Group L.P. v. Mainetti USA Inc.*, 70 USPQ2d 1080, 1086 (S.D.N.Y. 2004) (and cases cited therein). The organization may either produce as many deponents as are necessary to respond to the areas of inquiry in the notice if there is no witness with personal knowledge of all areas of inquiry, *see International Finance Corp. v. Bravo Co.*, 64 USPQ2d 1597, 1605 (TTAB 2002), or alternatively, may produce a witness who reviews the organization's records to become familiar with the topics for the deposition so that he or she may give knowledgeable and binding answers for the organization. *Id.* If more than one Fed. R. Civ. P. 30(b)(6) witness will be designated, those individuals should be identified and the areas on which each person will testify be described. Fed. R. Civ. P. 30(b)(6). Even if no current employees have knowledge of matters identified in the notice, an organization is not relieved of preparing a Fed. R. Civ. P. 30(b)(6) designee for deposition to the extent that

⁵ *See City National Bank v. OPGI Management GP Inc./Gestion OPGI Inc.*, 106 USPQ2d 1668, 1672 n.4 (TTAB 2013) ("Rule 30(b)(6) anticipates that a party's designated witness will not necessarily have personal knowledge of all matters but will nonetheless offer testimony regarding information that the 'party' should be able to provide.")

Cancellation No. 92056509

such matters are reasonably available to the organization from past documents, past employees or other sources. See *United Technologies Motor Systems Inc. v. Borg-Warner Automotive Inc.*, 50 USPQ2d 1060, 1062 (E.D. Mich. 1998).

The Board notes that Petitioner is a U.S. company with its principal place of business in the United States. Petitioner, as a U.S. entity, may not circumvent its obligation of producing a 30(b)(6) witness who resides in the United States by claiming that the persons most knowledgeable of the topics set forth in Respondent's 30(b)(6) deposition notice reside outside the United States. Petitioner is under an obligation to produce a 30(b)(6) witness who resides in the United States even if that means producing a person who is not most knowledgeable of the topics set forth in the 30(b)(6) deposition notice but who has reviewed Petitioner's records to become familiar with such topics.

In view thereof, Respondent's motion to compel is **GRANTED** to the extent that Petitioner must produce a 30(b)(6) witness who resides in the U.S. for an oral deposition to take place in the United States no later than 30 days from the date of Petitioner's certificate of service of documents and/or information compelled by this order, i.e., responses to Respondent's Interrogatory Request Nos. 26 and 27, and production of non-privileged documents responsive to Respondent's Document Request Nos. 12, 26, and 49.

Summary

1. Respondent's motion for partial reconsideration of the Board's October 30, 2014, discovery order is **DENIED**;

Cancellation No. 92056509

2. Petitioner's motion to compel is **DENIED** without prejudice, in part, **GRANTED**, in part, and deemed moot in part;
3. Respondent's motion to compel written discovery is **GRANTED**, in part, and **DENIED** without prejudice, in part;
4. Respondent's motion to compel discovery depositions on oral examination is **GRANTED**, in part, and **DENIED**, in part.

Board Approval Required for All Future Unconsented Motions

The Board notes that the parties in this matter have been quite litigious. In view thereof and pursuant to the Board's inherent authority to manage its docket, the Board imposes on the parties the requirement that each party must telephone the Board Interlocutory Attorney assigned to this case to receive permission before filing any future unconsented motions. *See* TBMP § 527.03. The party proposing to file an unconsented motion must be ready to conference (by telephone) with the opposing party and the Board to discuss the nature of the proposed motion. If permission is granted, the Board may impose shortened briefing times, the requirement for oral instead of written briefing, and any other requirement which may help this case move more efficiently toward final decision. Any unconsented motion filed without prior Board approval will be summarily denied.

Trial Schedule

Trial dates for this proceeding are reset as follows:

Cancellation No. 92056509

Discovery Closes for both parties ⁶	7/17/2015
Plaintiff's Pretrial Disclosures Due	8/31/2015
Plaintiff's 30-day Trial Period Ends	10/15/2015
Defendant's Pretrial Disclosures Due	10/30/2015
Defendant's 30-day Trial Period Ends	12/14/2015
Plaintiff's Rebuttal Disclosures Due	12/29/2015
Plaintiff's 15-day Rebuttal Period Ends	1/28/2016

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 2.125.

Briefs shall be filed in accordance with Trademarks Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

⁶ Although the Board, pursuant to its April 12, 2014, order, advised the parties that it would not entertain any further requests to extend the close of discovery, whether consented to or not, in light of the rulings herein, the Board, in its discretion, is extending the close of discovery for both parties to complete discovery in this matter. Therefore, Respondent's request to extend the close of discovery is deemed moot. The Board has now provided the parties more than ample time to complete discovery in this matter, including the extension granted herein. Accordingly, the Board will not entertain any further requests to extend the close of discovery, whether consented to or not.