

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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CME

Mailed: September 24, 2014

Cancellation No. 92058543

Edge Games Inc.

v.

Razer (Asia-Pacific) Pte Ltd.

By the Trademark Trial and Appeal Board:

This case now comes up on (1) *pro se* Petitioner's one-page "Motion for Summary Judgment," filed August 15, 2014 ("Motion I"); (2) *pro se* Petitioner's combined motion to compel and to test the sufficiency of Petitioner's responses to requests for admission, filed September 9, 2014 ("Motion II"); and (3) Respondent's combined response to Motions I and II and cross-motion for sanctions pursuant to the Board's inherent authority to sanction, filed September 18, 2014.

A motion for summary judgment is a pretrial device to dispose of cases in which "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Notwithstanding the caption of Motion I and that Petitioner "asks that the Board grant summary judgment in Petitioner's favor," Motion I is devoid of any discussion regarding the absence of any genuine disputes of material fact. Indeed, Motion I does not mention the merits of Petitioner's claims in any way.

Instead, the motion, in essence, seeks judgment in Petitioner's favor based on Respondent's purported failure to participate in the discovery conference mandated under Fed. R. Civ. P. 26(f) and Trademark Rule 2.120(a)(1) and (a)(2). Accordingly, the Board construes Motion I as a motion for sanctions in the form of judgment based on Respondent's purported failure to participate in the discovery conference. Such a motion, however, must be filed prior to the deadline for any party to make initial disclosures, which deadline in this case was May 1, 2014. *See* Trademark Rule 2.120(g)(1). Accordingly, Motion I is untimely and will be given no consideration.

With respect to Motion II, the certificate of service attached to the discovery requests at issue in Motion II reflects service of these papers on Respondent via first class mail on August 10, 2014. As such, Respondent's responses to Petitioner's discovery requests were due on September 14, 2014. *See* Trademark Rules 2.119(c) and 2.120(a)(3); *see also* TBMP §§ 113.05 and 403.03 (2014). Because Motion II was filed *before* the deadline for Respondent to respond to Petitioner's discovery requests, Motion II is premature and will be give no consideration.

Lastly, proceedings are suspended pending disposition of Respondent's motion for sanctions. The parties should not file any paper which is not germane to Respondent's motion.

Respondent's motion for sanctions will be decided in due course.
