

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

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Mailed: April 7, 2015

Cancellation No. 92059821

Golestan Co.

v.

Mahalaxmi Exports FZE

By the Trademark Trial and Appeal Board:

The Board construes Respondent's motion (filed September 29, 2014) to dismiss as a one for summary judgment to the extent matters outside the pleading must be considered. See TBMP Section 503.02.

In Board *inter partes* proceedings commenced after November 1, 2007, a party may not file a motion for summary judgment under Trademark Rule 2.127(e)(1) until that party has made its initial disclosures, except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Board. See Trademark Rule 2.127(e)(1); *Compagnie Gervais Danone v. Precision Formulations LLC*, 89 USPQ2d 1251, 1255 (TTAB 2009); *Notice of Final Rulemaking*, 72 Fed. Reg. 42242, 42245 (August 1, 2007). The requirement that a party serve its initial disclosures prior to or concurrently with the filing of a motion for summary judgment cannot be waived. Because Respondent filed its motion prior to the deadline for initial disclosures and

because the record does not indicate that Respondent has served such disclosures, the motion for summary judgment is denied as premature.

Proceedings are resumed. Dates are reset as follows:

Answer Due	5/5/2015
Deadline for Discovery Conference	6/4/2015
Discovery Opens	6/4/2015
Initial Disclosures Due	7/4/2015
Expert Disclosures Due	11/1/2015
Discovery Closes	12/1/2015
Plaintiff's Pretrial Disclosures Due	1/15/2016
Plaintiff's 30-day Trial Period Ends	2/29/2016
Defendant's Pretrial Disclosures Due	3/15/2016
Defendant's 30-day Trial Period Ends	4/29/2016
Plaintiff's Rebuttal Disclosures Due	5/14/2016
Plaintiff's 15-day Rebuttal Period Ends	6/13/2016

In each instance, a 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.