

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

Em/wbc

Mailed: December 11, 2015

Cancellation No. 92062012

JFP Gulf General Trading LLC

v.

Evory Technologies, Inc.

Wendy Boldt Cohen, Interlocutory Attorney:

Respondent's motion to dismiss filed October 20, 2015 is noted.

Respondent's motion to dismiss will not be considered as it is untimely. A motion to dismiss for failure to state a claim must be filed before, or concurrently with the answer. *See* TBMP § 503.01. Respondent filed its answer on September 19, 2015, but did not file its motion to dismiss until October 20, 2015. Therefore, Respondent's motion is untimely and will not be considered.

To the extent that Respondent intends its motion to dismiss to be considered as a summary judgment motion, the Board also will not consider the motion as a motion to dismiss because the deadline for initial disclosures had not passed at the time the motion was filed, and there is no indication in the record that they have been served. *See* TBMP § 528.02.

Proceedings are considered to have been suspended as of the October 20, 2015, filing date of Applicant's motion, and the conferencing, disclosure, discovery and trial dates are reset below.

Deadline for Discovery Conference	1/3/2016
Discovery Opens	1/3/2016
Initial Disclosures Due	2/2/2016
Expert Disclosures Due	6/1/2016
Discovery Closes	7/1/2016
Plaintiff's Pretrial Disclosures	8/15/2016
Plaintiff's 30-day Trial Period Ends	9/29/2016
Defendant's Pretrial Disclosures	10/14/2016
Defendant's 30-day Trial Period Ends	11/28/2016
Plaintiff's Rebuttal Disclosures	12/13/2016
Plaintiff's 15-day Rebuttal Period Ends	1/12/2017

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 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 2.129.¹

¹ Respondent's copy of the institution order was returned as undeliverable to the Board. The Board notes Respondent's change of address filed October 21, 2015 and have updated its records to reflect this change. A copy of the institution order can be viewed at the following link. <http://ttabvue.uspto.gov/ttabvue/v?pno=92062012&pty=CAN&eno=4>