

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

EAD

Opposition No. 125,142

MuscleTech Research and  
Development, Inc.

v.

Fitness Labs Nutrition Corp.

**Elizabeth A. Dunn, Attorney:**

This case now comes up on opposer's combined motion, filed October 15, 2002<sup>1</sup>, for imposition of a protective order and to compel applicant to answer specified deposition questions. Applicant, acting *pro se*, has failed to file a brief in response to opposer's motion. See Trademark Rule 2.127(a).<sup>2</sup>

In view of the circumstances set forth in opposer's combined motion, and because applicant has not responded to the motion, opposer's combined motion for imposition of a protective order and to compel applicant to answer specified deposition question is granted. See Trademark Rule 2.120(e).

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<sup>1</sup> Proceedings have been considered suspended as of the filing date of opposer's motion to compel. See Trademark Rule 2.120(e).

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The Board hereby imposes on the parties the attached standardized protective agreement. The parties are now bound by the provisions of this agreement.<sup>3</sup>

Opposer's motion to compel is granted. Applicant is allowed 30 days from the mailing date of this order to provide written responses which answer in full and without objection those deposition questions attached to opposer's motion to compel as Exhibit A, including all confidential information which has heretofore been withheld due to confidentiality concerns, failing which a motion for sanctions will be entertained by the Board. See Trademark Rule 2.120(g)(1).

It should also be noted that while Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

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<sup>2</sup> Trademark Rule 2.127(a) reads, in relevant part, as follows: "When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded."

<sup>3</sup> In response to requests made from parties involved in its proceedings, the Board promulgated a standardized protective order for the exchange of confidential information and materials. See 125 TMOG 70 (June 20, 2000). An electronic copy of the standard protective agreement is available from the PTO site on the World Wide Web, <http://www.uspto.gov/web/offices/com/sol/og/2000/week25/patagre.htm>.

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It is recommended that applicant obtain a copy of (i) the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, and (ii) the Trademark Trial and Appeal Board Manual of Procedure<sup>4</sup>, both of which are available for fees from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800).

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.

On December 30, 2002, opposer filed a consented motion to extend discovery and trial dates. Opposer's consented motion is granted, and discovery and trial dates are reset as set forth in opposer's December 30, 2002 motion.

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<sup>4</sup> The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is also available on the World Wide Web at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/>.