

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Baxley

Mailed: October 19, 2006

Opposition No. 91151693

Pharmacia Corporation and  
Pfizer Caribe

v.

Stratus Pharmaceuticals Inc.

**Andrew P. Baxley, Interlocutory Attorney:**

This case now comes up for consideration of the following motions: (1) applicant's first motion to compel responses to its first set of interrogatories; (2) opposer's consented motion (filed July 6, 2006) to accept its late-filed brief in response to the first motion to compel; and (3) applicant's second motion (filed June 30, 2006) to compel further responses to its interrogatory nos. 17(c), 20, and 28, which was incorporated into its reply brief in support of the first motion to compel.

Opposers' consented motion to accept its late-filed brief in response to the first motion to compel, which was timely served upon applicant, is hereby granted. The Board has considered opposers' brief in response to the first motion to compel in this decision.

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Inasmuch as opposers' brief in response to the first motion to compel and applicant's reply brief indicate opposers served responses to applicant's first set of interrogatories, the first motion to compel is moot.

Applicant's reply brief in support of the motion to compel alleges deficiencies in specific discovery responses that were not raised in the first motion to compel, the reply brief incorporates a second motion to compel and has been treated accordingly by opposer and the Board.

In the second motion to compel, applicant has quoted excerpts from the interrogatory responses at issue therein, but has not included a complete copy of those responses, as required by Trademark Rule 2.120(e)(1). See TBMP Section 523.02 (2d ed. rev. 2004). Without a complete copy of opposer's responses, the Board cannot render a meaningful decision on the second motion to compel. See *Fidelity Prescriptions, Inc. v. Medicine Chest Discount Centers, Inc.*, 191 USPQ 127 (TTAB 1976). Further, without a complete copy of opposer's responses, the Board cannot determine whether applicant's discovery needs with regard to the information sought through those interrogatories are met by other responses to applicant's first set of interrogatories. See TBMP Section 402.02 (2d ed. rev. 2004). In view of applicant's noncompliance with with Trademark Rule 2.120(e)(1), the second motion to compel is denied.

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Proceedings herein are resumed. Discovery and testimony periods are reset as follows.

DISCOVERY PERIOD TO CLOSE: **12/1/06**

Plaintiff's 30-day testimony period to close: **3/1/07**

Defendant's 30-day testimony period to close: **4/30/07**

Plaintiff's 15-day rebuttal testimony period to close: **6/14/07**

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 Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.