

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

Mailed: August 14, 2009

Opposition No. 91181262

Upcoming TM S.A.

v.

A & N Enterprises L.L.C.

George C. Pologeorgis, Interlocutory Attorney:

This proceeding is before the Board for consideration of applicant's motion, filed February 27, 2009, to compel discovery. Opposer has not filed a brief in response to applicant's motion.

In support of its motion, applicant seeks full and complete responses to its first set of interrogatory Nos. 3, 5, 7, 11, 15, 20, 21-24, verification of opposer's interrogatory responses and full and complete responses to applicant's first request for production of documents and things. Applicant asserts that it served the aforementioned discovery requests upon opposer in July 2008, but opposer has yet to fully respond to the discovery requests.

Pursuant to Trademark Rule 2.120(e)(2), applicant's motion is timely.¹

Inasmuch as opposer has failed to respond to applicant's motion, applicant's motion to compel is granted as conceded. See Trademark Rule 2.127(a).²

Accordingly, opposer is allowed **thirty (30) days** from the mailing date of this order in which to serve upon applicant (1) full and complete responses to applicant's Interrogatory Request Nos. 3, 5, 7, 11, 15, 20, 21-24, (2) proper verification of opposer's interrogatory responses, and (3) full and complete production of documents responsive to applicant's first request for documents and things. To the extent opposer objects to any of the interrogatory and/or document requests based upon privilege, opposer is required to provide applicant with a privilege log within the **thirty days** set forth above. Should opposer fail to serve on applicant the discovery responses as ordered herein, as well as a privilege log, if applicable, the Board will entertain a motion for sanctions in the form of entry

¹ The Board finds that applicant has demonstrated a good faith effort to resolve the parties' discovery dispute prior to seeking Board intervention, as required by Trademark Rule 2.120(e)(1).

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

Opposition No. 91181262

of judgment sustaining the opposition. See Trademark Rule 2.120(g)(1).

Proceedings are hereby resumed. Discovery is closed. Trial dates, beginning with the deadline for the close of opposer's testimony period, are reset as follows:

Plaintiff's 30-day Trial Period Ends	11/13/2009
Defendant's Pretrial Disclosures	11/28/2009
Defendant's 30-day Trial Period Ends	1/12/2010
Plaintiff's Rebuttal Disclosures	1/27/2010
Plaintiff's 15-day Rebuttal Period Ends	2/26/2010

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.