

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

MBA

Mailed: June 22, 2010

Opposition No. 91187342

Sean Puffy Combs

v.

Pacific Rim Marketing Inc.

Michael B. Adlin, Interlocutory Attorney:

On May 31, 2010, applicant filed a "request to limit number of interrogatories by Opposer," which is construed as a motion for a protective order which would limit the number and scope of opposer's interrogatories and document requests. On June 18, 2010, the Board held a teleconference with the parties to hear argument and rule on applicant's motion, in which Peter Bucci and Dennis Hopkins appeared on opposer's behalf¹ and applicant's President Fred Scherer appeared on pro se applicant's behalf. Interlocutory Attorney Michael Adlin participated on the Board's behalf.

In its motion, applicant claims that opposer's service of 40 interrogatories and 36 requests for production was "excessive," and that "many of the requests are irrelevant

¹ Opposer's current (new) attorneys noticed their appearance on June 17, 2010.

to the basis of the Opposer's claims as filed." During the teleconference, applicant clarified that its objections are based not only on the number of requests served, but also on the allegedly undue burden which responding to opposer's requests would pose. Applicant also claimed, by way of example, that opposer's Document Request No. 31, seeking "All business plans or other planning documents concerning use or registration of the Mark," is not relevant to opposer's claims, and argued that applicant's business plans are confidential, proprietary and/or trade secrets.

As held during the teleconference, applicant's motion is **DENIED** and its objections to opposer's discovery requests are **OVERRULED**. With respect to applicant's objection that opposer's requests are "excessive," the "total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts" Trademark Rule 2.120(d)(1). Here, opposer is currently within the limit, having served a total of 55 interrogatories, when the subparts in Interrogatory Nos. 3, 4, 12, 20, 25, 27, 29, 31, 32 and 35 are counted.² While the service of less than 75 interrogatories may, in

² Interrogatory Nos. 3, 4, 12, 20, 25, 27, 29, 31 and 35 are comprised of two subparts and Interrogatory No. 32 is comprised of seven. All of the other interrogatories are counted as single interrogatories.

many cases, still be "excessive" or unduly burdensome, opposer's interrogatories in this case are reasonable in scope and number, as they are all relatively specific, and reasonably calculated to lead to the discovery of admissible evidence on opposer's claims of priority and likelihood of confusion, dilution, false suggestion and descriptiveness.

In fact, because all of opposer's discovery requests relate to one or more of opposer's claims or applicant's defenses, applicant's relevance objections are not well-taken. As a general matter, opposer's discovery requests fall squarely within the guidelines for acceptable discovery requests set forth in TBMP § 414 (2d ed. rev. 2004). Nevertheless, where appropriate, applicant may produce "a representative sampling of the information sought." TBMP § 414(2).

Finally, applicant's concern with disclosing its business plan(s) or other confidential or proprietary information is not a basis upon which to prohibit opposer from serving otherwise valid discovery requests. As explained during the teleconference and in the Board's order of November 6, 2009 concerning the parties' discovery conference, the Board's standard protective order governs this proceeding by operation of Trademark Rule 2.116(g), and ensures that "Trade Secret/Commercially Sensitive" information will not be disclosed to opposer himself (as

opposed to his counsel). Other types of confidential or highly confidential information may be shielded from public access if appropriately designated under the standard protective order, which is available here:

<http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp>

In short, applicant's motion is denied, but because applicant's filing of its motion for a protective order tolled the deadline for applicant to respond to opposer's discovery requests, applicant's responses are now due within **THIRTY DAYS** of the mailing date of this order. Pursuant to the parties' agreement during the teleconference, disclosure, discovery, trial and other dates are hereby reset as follows:

Expert Disclosures Due	September 7, 2010
Discovery Closes	October 7, 2010
Plaintiff's Pretrial Disclosures	November 21, 2010
Plaintiff's 30-day Trial Period Ends	January 5, 2011
Defendant's Pretrial Disclosures	January 20, 2011
Defendant's 30-day Trial Period Ends	March 6, 2011
Plaintiff's Rebuttal Disclosures	March 21, 2011
Plaintiff's 15-day Rebuttal Period Ends	April 20, 2011

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

Opposition No. 91187342

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.
