

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

MW

Mailed: March 14, 2016

Opposition No. 91220670

Vulkan Fight Co., Ltda.

v.

Kiah Petrie

Michael Webster, Interlocutory Attorney:

On September 22, 2015, Opposer filed a motion to compel initial disclosures.¹ On the same day, Opposer filed a motion to compel discovery responses to interrogatories and requests for production of documents. Applicant did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a).

By its motions to compel discovery, Opposer seeks an order directing Applicant to serve his initial disclosures and to respond to Opposer's interrogatory requests, set one, and request for production of documents, set one.

The motions to compel discovery are hereby **granted** as conceded. *See* Trademark Rule 2.127(a); TBMP § 502.04.

A party that fails to respond to document requests during the time allowed therefor, and that is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to

¹ The following day, Opposer filed a corrected motion to compel initial disclosures. In view thereof, the Board will consider the corrected motion as the controlling motion.

have forfeited its right to object to the discovery request on its merits. *See No Fear Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000); TBMP § 403.03. In addition, a party may not file a motion for summary judgment until the party has made its initial disclosures. Trademark Rule 2.127(e)(1).²

Accordingly, Applicant is directed to serve its initial disclosures within TWENTY (20) DAYS of the mailing date of this order.³ Additionally, Applicant is directed to serve, within THIRTY (30) DAYS of the mailing date of this order, responses to Opposer's interrogatory requests, set one, and requests for production of documents, set one. Applicant must respond in full and without objection on the merits thereof inasmuch as Applicant failed either to timely respond or to object to said discovery requests. *Id.*

In the event that Applicant fails to serve full responses as ordered herein, Opposer's remedy may lie in a motion for sanctions, as appropriate. *See Trademark Rule 2.120(g)(1); TBMP § 411.05.*

Proceedings are resumed. Discovery, disclosure and trial dates are reset as indicated below:

Discovery Closes	5/1/2016
Plaintiff's Pretrial Disclosures	6/15/2016
Plaintiff's 30-day Trial Period Ends	7/30/2016
Defendant's Pretrial Disclosures	8/14/2016
Defendant's 30-day Trial Period Ends	9/28/2016
Plaintiff's Rebuttal Disclosures	10/13/2016
Plaintiff's 15-day Rebuttal Period Ends	11/12/2016

² Except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Board. *Id.*

³ *See TBMP § 401.02* regarding the service of initial disclosures.

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