

ESTTA Tracking number: **ESTTA712512**

Filing date: **12/03/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91224012
Party	Plaintiff Survivorman Holdings Inc.
Correspondence Address	E LYNN PERRY PERRY IP GROUP A LAW CORPORATION 900 LARKSPUR LANDING CIRCLE, STE 226 LARKSPUR, CA 94939 UNITED STATES lperry@perryip.com, krea@perryip.com
Submission	Request for Discovery Conference
Filer's Name	E Lynn Perry
Filer's e-mail	lperry@perryip.com, krea@perryip.com
Signature	/elp/
Date	12/03/2015
Attachments	151203 Motion to Compel Discovery Conference.pdf(20918 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SURVIVORMAN HOLDINGS INC.,)	Opposition No.: 91224012
)	
Opposer,)	
)	Serial No. 86317915
v.)	Filed: June 23, 2014
)	Mark: SURVIVORMATE
SURVIVORMATE IND. LTD. dba Survivormate)	Published: May 26, 2015
Ind. Ltd.,)	
)	MOTION COMPELLING RESPONDENT'S
Respondent.)	PARTICIPATION IN DISCOVERY
)	CONFERENCE

Pursuant to 37 C.F.R. § 2.120(a)(2), TBMP 401.01, and Rule 26(f) of the Federal Rules of Civil Procedure, Opposer, SURVIVORMAN HOLDINGS INC., by its attorneys, hereby moves the Board for an order compelling Respondent's, SURVIVORMATE IND. LTD., participation in the required discovery conference. This opposition was filed September 23, 2015, and an answer was served November 2, 2015.

The undersigned attempted to set up the required discovery conference on by email communication with Respondent's former attorneys dated November 11, 2015. A conference was scheduled for November 23, 2015. Then, on November 19, 2015, the undersigned was notified that Respondent's attorneys were withdrawing, which they did several days later. The undersigned searched for contact information for Respondent on the USPTO and TTAB website for the relevant cases, but found none, and emailed former opposing counsel for this information. Counsel stated she would determine if they were permitted to give me that information. In a November 23, 2015 email, former opposing counsel emailed that "The contact information for the Applicant that we are able to provide is the one that is publicly available via the following link: <http://survivormate.com/contact/>."

That same day (November 23) the undersigned emailed and called Respondent stating, "Please call or email me immediately so that we can arrange a time to conduct our required

conference under Trademark Rule 2.120(a)(2), and TBMP § 401.01. The conference must be conducted by December 3, 2015. If I do not hear from you within the next three business days, I will seek an order from the TTAB.” On November 25, Respondent’s principal, Douglas Sinclair, called the undersigned. In that conversation, the undersigned told him about the need for the discovery conference and that the deadline was December 3, 2015. Mr. Sinclair stated he had “gone to several law firms and [would] make [his] decision [the following day]” and that he would have his new attorney contact me. To date, the undersigned has still not heard from Mr. Sinclair or his new attorney, and she therefore has been unable to schedule the required conference.

Opposer notes that, while Respondent appears to have changed the contact information in connection with the subject application, neither he nor his former attorneys have updated his contact information in connection with the instant opposition. The contact information for Respondent that the undersigned has is noted in the Certificate of Service which follows.

Respondent hereby requests that the Board order Respondent to participate in the discovery conference or risk sanctions, including striking of his answer.

December 3, 2015

Respectfully submitted,

/elp/

E. Lynn Perry

CERTIFICATE OF SERVICE

I hereby certify that as of the date set forth below, a true and complete copy of the foregoing

MOTION COMPELLING RESPONDENT'S PARTICIPATION IN DISCOVERY CONFERENCE

has been served on

Douglas Sinclair
Survivormate Ind. Ltd.
DBA Survivormate Ind. Ltd.
Suite 368-255 Newport Drive,
Port Moody, BC, Canada V3H 5H1

by mailing said copy via First Class Mail, postage prepaid (with a courtesy copy via email to info@survivormate.com and survivormate@shaw.ca).

Date: December 3, 2015

/elp/

E. Lynn Perry