

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
General Email: TTABInfo@uspto.gov

RSC

February 28, 2019

Opposition No. 91236165

Vina Concha y Toro S.A.

v.

Citadel Trading Corp.

Geoffrey M. McNutt, Interlocutory Attorney:

On December 7, 2018, Applicant filed a motion for discovery sanctions asserting that Opposer failed to comply with the Board's prior discovery order (issued on November 5, 2018), and specifically that Opposer failed to serve verified supplemental responses to Applicant's Interrogatory Nos. 8, 14, and 15.

The correspondence attached to Applicant's motion suggests that Opposer served supplemental interrogatory responses after the Board issued its discovery order. However, neither party submitted Applicant's supplemental interrogatory responses. Moreover, Opposer's response to Applicant's motion indicates that Opposer believes that the supplemental responses complied, at least in part, with the Board's order.¹

Because this does not appear to be a case where Opposer failed to provide any supplemental discovery responses following the Board's discovery order, it was

¹ Applicant did not submit a reply brief in support of the motion for sanctions.

incumbent on Applicant, as the party moving for discovery sanctions, to submit Opposer's supplemental responses. Absent copies of Opposer's supplemental discovery responses, the Board has no way of determining whether Opposer supplemental responses complied with the Board's prior discovery order.

Accordingly, Applicant's motion for discovery sanctions is **denied without prejudice**.

Proceedings are resumed, and remaining discovery and trial dates are rest as shown on the schedule below.

Discovery Closes	3/8/2019
Plaintiff's Pretrial Disclosures Due	4/22/2019
Plaintiff's 30-day Trial Period Ends	6/6/2019
Defendant's Pretrial Disclosures Due	6/21/2019
Defendant's 30-day Trial Period Ends	8/5/2019
Plaintiff's Rebuttal Disclosures Due	8/20/2019
Plaintiff's 15-day Rebuttal Period Ends	9/19/2019
Plaintiff's Opening Brief Due	11/18/2019
Defendant's Brief Due	12/18/2019
Plaintiff's Reply Brief Due	1/2/2020
Request for Oral Hearing (optional) Due	1/12/2020

The Federal Rules of Evidence generally apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be

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submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).