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

Proceeding	91250670
Party	Plaintiff Generation Bio Co.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Generation Bio Co.,)	
)	
Opposer)	
)	
v.)	Opposition No. 91250670
)	
Touchlight IP Limited,)	
)	
Applicant)	
)	

**OPPOSER’S MOTION TO COMPEL ANSWERS TO FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT**

I. INTRODUCTION

Opposer Generation Bio Co. (“Opposer”) submits this Motion to Compel Applicant, Touchlight IP Limited (“Touchlight” or “Applicant”), to respond substantively to interrogatories and requests for production of documents that Opposer served on Touchlight on January 13, 2020. These interrogatories and requests for production of documents seek critical information concerning Touchlight’s use of the “CEDNA” trademark, and the responsive information is easily available to Touchlight. Touchlight has not responded to the Interrogatories and Requests for Production of Documents to date. Opposer seeks the responses from Touchlight to these discovery requests prior to the beginning of end of its discovery period. Because of Touchlight’s failure to respond to the discovery requests or to offer any reason for its failure to respond or to indicate when the responses will be provided, Opposer now moves to compel.

II. FACTUAL BACKGROUND

Opposer is now, and has been for some time, engaged in the business of scientific and medical research related to the diagnosis and treatment of genetic diseases, development and provision of pharmaceuticals and genetic medicines with drug like properties that enable people born with genetic diseases to live long, full lives and product development and consultancy

services in the fields of biotechnology, biologics, pharmaceuticals, medical science, chemistry and biochemistry, (collectively, “Opposer’s Goods and Services”).

Since long prior to the August 27, 2018 filing date of Applicant’s United States application, and the February 28, 2018 filing date of Applicant’s European priority application, the term “ceDNA” has been used as an acronym for “closed-ended(or closed-end) DNA. Opposer has used the acronym “ceDNA” to refer to “closed-ended DNA” in association with its scientific and medical research related to the diagnosis and treatment of genetic diseases, and development and provision of pharmaceuticals and genetic medicines long before the Applicant adopted this mark.

The goods identified in Application Serial No. 88093870 include DNA backed chemicals, vaccines and extracts, the exact goods in connection with which Opposer uses the acronym “ceDNA.” The goods other than DNA backed chemicals, vaccines and extracts identified in Application Serial No. 88093870 are identical to or closely related to Opposer’s Goods and Services.

III. ARGUMENT

A. There appears to be no reason for Touchlight not to respond to Opposer’s Interrogatories and Requests for Production of Documents.

Opposer served its First Set of Interrogatories and Requests for Production of Documents on counsel for Applicant on January 13, 2020 at the beginning of the discovery period in this proceeding. No response was received by the due date of February 12, 2020. On February 18, 2020, Opposer’s counsel contacted counsel for Touchlight to find out when the responses would be served. After another reminder on February 20, 2020, counsel for Touchlight stated that she was waiting for instructions from her client and would inform the undersigned when they were received. Opposer’s counsel sought a more definite indication of when the responses would be received on February 26, 2020, but on March 2, 2020, counsel for Touchlight responded that “I do not have instructions from my client so cannot ask for an exact extension.”

On April 29, 2020, the undersigned counsel for Opposer again requested that Touchlight

respond to the discovery requests, or at least provide an indication as to when a response could be expected. Counsel for Touchlight responded on April 30, 2020, indicating that she had sent another follow up to her client but had not yet received a substantive reply and would respond when she did. The parties conducted a telephone conference on May 5, 2020, to "meet and confer" as to whether Touchlight intends to respond to the discovery requests, and if so, when it intends to respond, but counsel for Touchlight stated that she has received no indication from her client so she was unable to answer these questions.

Despite the above described reminders and the conference on May 5, 2020, Touchlight has not responded to the discovery requests, and has not indicated when it intends to respond to the discovery requests. Any correspondence or contact for these matters has been initiated by Opposer and its counsel.

Opposer's discovery period closes July 11, 2020. Opposer will be severely prejudiced if the proceeding is allowed to move forward without Opposer receiving the responses to the discovery requests so that it can follow up with further requests for information or documentation, if needed.

B. Touchlight's Failure to Respond to Opposer's First Set of Interrogatories and Requests for Production of Documents is Highly Prejudicial to Opposer.

Under the current Scheduling Order, Opposer's discovery period closes July 11, 2020. Touchlight's inexcusable failure to provide the requested discovery, in spite of numerous requests from Opposer to do so as described above, has therefore prejudiced Opposer severely.

CONCLUSION

For the reasons stated above, Opposer respectfully requests that the Board enter an Order requiring Touchlight to respond fully to Opposer’s First Set of Interrogatives and Requests for Production of Documents within five (5) days of its Order and grant Opposer such further relief as is just.

GENERATION BIO CO.
By its attorneys,

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May 18, 2020

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Opposer's Motion to Compel was served by email this 18th day of May, 2020, upon:

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