

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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mbm/RA

June 23, 2021

Opposition No. 91256218

Hirsch Gift, Inc

v.

Hub Pen Company, LLC

Mary Beth Myles, Interlocutory Attorney:

On May 10, 2021, Applicant filed a motion to compel discovery. Opposer did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a).

Applicant seeks an order directing Opposer to produce documents in response to or to fully respond to Applicant's Request for Production numbers 1-7 and 10-13 and (2) fully answer Applicant's Interrogatory numbers 1-3 and 5-6.

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

Accordingly, Opposer is directed to serve, within **thirty days** of the mailing date of this order: (1) supplemental responses to Applicant's Document Request Nos. 1-7 and 10-13 and Interrogatory Nos. 1-3 and 5-6; and (2) documents responsive to Applicant's Document Request Nos. 1-7 and 10-13.

To the extent the production of documents to any particular request is voluminous, Opposer may produce a representative sampling of documents. Such representative sampling, however, must be sufficient to meet Applicant's discovery needs.

If Opposer has no documents in its possession, custody or control that are responsive to a particular request, Opposer must so state affirmatively in its response.

Additionally, to the extent Opposer withholds any documents on the basis of privilege, Opposer is required to provide Applicant with a privilege log within the same thirty days of the mailing date of this order.

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

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

Expert Disclosures Due	7/23/2021
Discovery Closes	8/22/2021
Plaintiff's Pretrial Disclosures Due	10/6/2021
Plaintiff's 30-day Trial Period Ends	11/20/2021
Defendant's Pretrial Disclosures Due	12/5/2021
Defendant's 30-day Trial Period Ends	1/19/2022
Plaintiff's Rebuttal Disclosures Due	2/3/2022
Plaintiff's 15-day Rebuttal Period Ends	3/5/2022
Plaintiff's Opening Brief Due	5/4/2022
Defendant's Brief Due	6/3/2022
Plaintiff's Reply Brief Due	6/18/2022
Request for Oral Hearing (optional) Due	6/28/2022

Generally, the Federal Rules of Evidence 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, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be 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).