

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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tdc

March 11, 2022

Opposition No. 91268509

The Wonderful Company LLC

v.

Fernandez de Mesa, Leticia

**Denise M. DelGizzi,
Chief Clerk of the Board:**

On December 13, 2021, Opposer filed a motion to compel discovery requests. Applicant did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a).

Opposer seeks an order directing Applicant to serve its responses to Opposer's First Set of Request for the Production of Documents.

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

A party that fails to respond to interrogatories or 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 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.

Accordingly, Applicant is directed to serve, within **thirty days** of the mailing date of this order, responses to Opposer's First Set of Request for the Production of Documents. 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(h)(1); TBMP § 411.05.

Proceedings are resumed. Disclosure and trial dates are reset as indicated below:

Plaintiff's Pretrial Disclosures Due	5/8/2022
Plaintiff's 30-day Trial Period Ends	6/7/2022
Defendant's Pretrial Disclosures Due	6/22/2022
Defendant's 30-day Trial Period Ends	8/6/2022
Plaintiff's Rebuttal Disclosures Due	8/21/2022
Plaintiff's 15-day Rebuttal Period Ends	9/20/2022
Plaintiff's Opening Brief Due	11/19/2022
Defendant's Brief Due	12/19/2022
Plaintiff's Reply Brief Due	1/3/2023
Request for Oral Hearing (optional) Due	1/13/2023

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).