

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

January 24, 2023

Opposition No. 91275024

The Comphy Co.

v.

Tri-Knit Textile Company Limited

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On January 11, 2023, Opposer, The Comphy Co., filed a motion to compel discovery responses. 9 TTABVUE.

A motion to compel discovery must be filed **before** the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset. *See* Trademark Rule 2.120(f)(1), 37 C.F.R. § 2.120(f)(1); *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 523.03 (2022).

The deadline for serving pretrial disclosures in this proceeding was January 3, 2023. 2 TTABVUE 3. Opposer's motion to compel discovery was filed subsequent to this deadline. Accordingly, the motion to compel discovery is **DENIED** as untimely.

Dates remain as set, as indicated below:

Plaintiff's 30-day Trial Period Ends	2/17/2023
Defendant's Pretrial Disclosures Due	3/4/2023
Defendant's 30-day Trial Period Ends	4/18/2023

Plaintiff's Rebuttal Disclosures Due	5/3/2023
Plaintiff's 15-day Rebuttal Period Ends	6/2/2023
Plaintiff's Opening Brief Due	8/1/2023
Defendant's Brief Due	8/31/2023
Plaintiff's Reply Brief Due	9/15/2023
Request for Oral Hearing (optional) Due	9/25/2023

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, 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 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).