

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: August 11, 2007

Cancellation No. 92045838

Mountain Valley Spring
Company, LLC

v.

David M. Zutler

Andrew P. Baxley, Interlocutory Attorney:

Petitioner's second motion to compel (filed May 24, 2007) is hereby granted as conceded. See Trademark Rule 2.127(a).

Respondent is allowed until **thirty days** from the mailing date set forth in the caption of this order to serve responses **without objection** to petitioner's second set of interrogatories and document requests. Respondent is allowed until **thirty days** from the mailing date set forth in the caption of this order to select, designate and identify the items and documents, or categories of items and documents, to be produced **without objection** in response to petitioner's second set of interrogatories and document requests and to notify petitioner that the selection, designation and identification of such items and documents

Cancellation No. 92045838

has been completed.¹ Petitioner is allowed until **thirty days** from receipt of notification from respondent that the items or documents have been selected, designated and identified to inspect and copy the produced materials, as provided for in Fed.R.Civ.P. 34(b) and Trademark Rule 2.120(d)(2), unless the parties otherwise agree.²

Proceedings herein are resumed. Respondent's discovery period remains closed. Petitioner's discovery period and testimony periods are reset as follows.

PLAINTIFF'S DISCOVERY PERIOD TO CLOSE: 10/12/07

Plaintiff's 30-day testimony period to close: 1/10/08

Defendant's 30-day testimony period to close: 3/10/08

Plaintiff's 15-day rebuttal testimony period to close: 4/24/08

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

¹ If the materials are voluminous, respondent may produce a representative sampling and so inform petitioner that a representative sampling has been produced.

² If applicant fails to comply with this order, opposer's remedy lies in a motion for sanctions, pursuant to Trademark Rule 2.120(g)(1).