

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

MBA

Mailed: September 26, 2011

Cancellation No. 92050860

Trans World International, Inc.

v.

American Strongman Corporation

Michael B. Adlin, Interlocutory Attorney:

Pursuant to the Board's order of December 9, 2010, petitioner's testimony period was scheduled to close on April 10, 2011. Petitioner filed its trial brief on June 9, 2011. This case now comes up for consideration of respondent's motion to strike petitioner's trial brief as untimely, filed July 18, 2011. Petitioner opposes the motion.

Respondent argues that under Trademark Rule 2.128(a)(1), petitioner's brief was due 60 days after the deadline for petitioner's rebuttal disclosures. Pursuant to the Board's December 9, 2010 order, petitioner's rebuttal disclosures were due March 11, 2011, and therefore, according to respondent, petitioner's brief "must have been filed by May 10, 2011," and was late.

Respondent's motion to strike is hereby **DENIED**. In fact, under Trademark Rule 2.128(a)(1), petitioner's trial brief was

due "not later than sixty days after the date set for the close of rebuttal testimony" (emphasis supplied). Here, the date set for the close of rebuttal testimony was April 10, 2011, and petitioner's trial brief was therefore due within 60 days of April 10, 2011, or June 9, 2011, the day petitioner filed its brief.

Because respondent's motion created uncertainty as to whether petitioner's trial brief would be considered, and thus whether it would be necessary for respondent to file a trial brief, respondent's trial brief is now due within **THIRTY DAYS** of the mailing date of this order. Petitioner's reply brief, if any, is due in accordance with Trademark Rule 2.128(a)(1).
