

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

BUO

Mailed: December 30, 2015

Cancellation No. 92053315

American University

v.

*The American University for Science and
Technology*

Benjamin U. Okeke, Interlocutory Attorney:

Petitioner's motion to compel, filed November 19, 2015, is **GRANTED** as conceded, because Respondent failed to respond thereto.¹ Trademark Rule 2.127(a); *Central Mfg., Inc. v. Third Millennium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001); *Boston Chicken, Inc. v. Boston Pizza Int'l, Inc.*, 53 USPQ2d 1053 (TTAB 1999).

Accordingly, Respondent is ordered to: (i) serve, no later than **THIRTY DAYS** from the mailing date of this order, its responses, without objection on the merits,²

¹ Respondent's answer to the amended petition to cancel, filed November 18, 2015, is noted and accepted as Respondent's operative pleading in this proceeding.

² Objections going to the merits of a discovery request include those which challenge the request as overly broad, unduly vague and ambiguous, burdensome and oppressive, as seeking non-discoverable information on expert witnesses, or as not calculated to lead to the discovery of admissible evidence. In contrast, claims that information sought by a discovery request is trade secret, business-sensitive or otherwise confidential, is subject to attorney-client or a like privilege, or comprises attorney work product, goes not to the merits of the request but to a characteristic or attribute of the responsive information. *See No Fear*, 54 USPQ2d at 1554.

to Petitioner's Second Set of Interrogatories Nos. 40-50 and Petitioner's Second Set of Document Requests Nos. 32-40, served April 7, 2015,³ and (ii) serve all responsive documents at Respondent's own expense.⁴ *See, No Fear, Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000).

In the event Respondent fails to respond to Petitioner's discovery requests as ordered herein, Respondent may be subject to sanctions, potentially including entry of judgment against it. Trademark Rule 2.120(g); Fed. R. Civ. P. 37(b)(2).

The proceeding is **RESUMED**, and the remaining disclosure and trial dates are reset as follows:

Plaintiff's Pretrial Disclosures, If Not Already Served	2/15/2016
Plaintiff's 30-day Trial Period Ends	3/31/2016
Defendant's Pretrial Disclosures	4/15/2016
Defendant's 30-day Trial Period Ends	5/30/2016
Plaintiff's Rebuttal Disclosures	6/14/2016
Plaintiff's 15-day Rebuttal Period Ends	7/14/2016

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 taking of testimony. Trademark Rule 2.125.

³ With regard to Petitioner's Requests for Admission, it is not necessary to file a motion to deem requests for admissions admitted when no response is served, since the admissions are deemed admitted by operation of Fed. R. Civ. P. 36(a).

⁴ Respondent is reminded that its obligation to conduct a thorough search of its records and produce any responsive materials includes a search of electronically stored information. Electronically stored information may be produced in the form specified by the request. If no specification is made, Respondent must produce the electronically stored information in the form in which it is ordinarily maintained, or in a reasonably usable form. *See* Fed. R. Civ. P. 34(b)(2)(E)(ii). Fed. R. Civ. P. 34(a) "requires that, if necessary, a responding party 'translate' information it produces into a 'reasonably usable' form." However, the option to produce in a reasonably usable form does not mean that a responding party is free to convert electronically stored information from the form in which it is maintained to a different form that makes it more difficult or burdensome for the requesting party to use the information efficiently in the litigation.

Cancellation No. 92053315

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.