

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

nmt/gcp

Mailed: September 22, 2011

Cancellation No. 92053581

Hospira, Inc.

v.

Jason Smith

By the Trademark Trial and Appeal Board:

By order dated July 20, 2011, the Board allowed respondent until August 19, 2011 in which to file with the Board and serve upon petitioner an answer which complies with Fed. R. Civ. P. 8(b), as well as explain why he did not timely file an answer by the original due date.

On August 18, 2011 (via certificate of mailing), respondent filed his answer but did not explain why he filed his answer late.

Following a careful review of respondent's answer, the Board finds that the answer still does not comply with Fed. R. Civ. P. 8. Specifically, in response to Paragraphs 1-8, and 14-15 of the petition to cancel, respondent states that it "neither admits nor denies and leaves to petitioner to his proof thereof." Such a response is not appropriate.

As stated in the Board's June 17, 2011 order, it is incumbent upon respondent to either admit or deny the allegations in each paragraph of the petition to cancel and, if respondent is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, he should so state and this will have the effect of a denial. Neither admitting nor denying an allegation, however, does not comport with Fed. R. Civ. P. 8(b).

In view thereof, respondent is allowed TWENTY DAYS from the mailing date of this order to file and serve an answer which complies with Fed. R. Civ. P. 8(b), failing which judgment may be entered against applicant.¹ Respondent is advised that the Board will be extremely reluctant to afford respondent any additional time to perfect his answer if respondent fails to file and serve an answer in accordance with Fed. R. Civ. P. 8(b).

As a final matter, the Board finds that the reasons provided by respondent in support of his motion (filed July 15, 2011) to extend his time to respond to the Board's June 17, 2011 order, i.e., respondent is representing himself *pro se* in this matter and requires additional time to formulate a proper answer, satisfy the Board's requirement that respondent

¹ Again, the Board refers respondent to the following terminated Board proceedings, which respondent may view via the Board's TTABVue website, to ascertain the proper format for an answer under Fed. R. Civ. P. 8(b): Cancellation Nos. 92050994 and 92050883 (See entries designated as "answer").

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explain why he did not file his answer by the original due date.

In view thereof and because the Board, by this order, has provided respondent additional time in which to file and serve a proper answer, petitioner's motion (filed March 21, 2011) for default judgment is denied as moot.

Proceedings herein otherwise remain suspended pending the filing and service of respondent's answer, as ordered above.