

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

Mailed: October 19, 2012

Cancellation No. 92053872

EMI Christian Music Group,  
Inc.

v.

Kevin J. Blackwell

**M. Catherine Faint,  
Interlocutory Attorney:**

Before the Board is petitioner's motion, filed February 28, 2012 to compel initial disclosures and discovery responses, to deem admissions admitted, and to provide that respondent has waived objections to interrogatories and discovery responses. On September 5, 2012, the Board allowed respondent twenty days to respond to the motion to compel and to provide a redacted copy of his March 12, 2012 filing with the Board. No response to the Board's order is of record.

Petitioner's motion to compel initial disclosures and discovery responses is granted as conceded as detailed below. See Trademark Rule 2.127(a). Petitioner's request for admissions is deemed admitted by operation of rule. See Fed. R. Civ. P. 36(a)(3). The confidential designation has been removed from respondent's March 12, 2012 filing.

In view thereof, respondent is hereby ordered to serve no later than **TWENTY DAYS** from the mailing date of this order complete responses, without objection, to petitioner's discovery requests, including interrogatories and request for production of documents.<sup>1</sup>

Respondent is reminded that when a party, without substantial justification, fails to disclose information required, or fails to amend or supplement a prior response as required, that party may be prohibited from using as evidence the information not disclosed. See Fed. R. Civ. P. 37(c)(1); see also TBMP § 527.01(e) and cases cited therein.

In the event respondent fails to respond to petitioner's discovery requests as ordered herein, petitioner's remedy lies in a motion for sanctions pursuant to Trademark Rule 2.120(g).

Dates are reset as set out below.

Discovery Closes	CLOSED
Plaintiff's Pretrial Disclosures Due	11/20/2012

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<sup>1</sup> The Board has previously distinguished objections on the merits of a discovery request from other types of objections:

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.

*No Fear, Inc. v. Rule*, 54 USPQ2d 1551, 1554 (TTAB 2000).

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Plaintiff's 30-day Trial Period Ends 1/4/2013  
Defendant's Pretrial Disclosures Due 1/19/2013  
Defendant's 30-day Trial Period Ends 3/5/2013  
Plaintiff's Rebuttal Disclosures Due 3/20/2013  
Plaintiff's 15-day Rebuttal Period Ends 4/19/2013

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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