

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

DUNN

Mailed: March 29, 2012

Cancellation No. 92054472

Alticor Inc.

v.

Fizzy, LLC

**Elizabeth A. Dunn, Attorney (571-272-4267):**

This case now comes up on petitioner's motion, filed January 25, 2012, to compel production of respondent's initial disclosures, and petitioner's motion, filed March 1, 2012, to compel respondent to answer petitioner's first set of interrogatories and document requests.

Both motions are supported by the requisite statement that petitioner has made a good faith effort to resolve the matter before filing the motion. See Trademark Rule 2.120(e). Respondent has failed to file a brief in response to either motion. See Trademark Rule 2.127(a).<sup>1</sup> In view of the circumstances set forth in petitioner's two motions to compel,

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<sup>1</sup> Trademark Rule 2.127(a) reads, in relevant part, as follows: "When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded."

and because respondent has not responded to either motion, petitioner's motions to compel initial disclosures and discovery is granted.

Respondent is hereby ordered to serve petitioner with initial disclosures which comply with Fed. R. Civ. P. 26, and responses to petitioner's first set of interrogatories and document requests, no later than **THIRTY DAYS** from the mailing date of this order. *Influence, Inc. v. Elaina Zuker*, 88 USPQ2d 1859, 1860-1861 (TTAB 2008).

Failure to comply with this order may subject respondent to sanctions, potentially including entry of judgment against respondent pursuant to Trademark Rule 2.120(g).

Proceedings are considered to have been suspended with the filing of the second motion to compel but are now resumed.

Expert Disclosures Due	5/5/2012
Discovery Closes	6/4/2012
Plaintiff's Pretrial Disclosures	7/19/2012
Plaintiff's 30-day Trial Period Ends	9/2/2012
Defendant's Pretrial Disclosures	9/17/2012
Defendant's 30-day Trial Period Ends	11/1/2012
Plaintiff's Rebuttal Disclosures	11/16/2012
Plaintiff's 15-day Rebuttal Period Ends	12/16/2012

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.

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