

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

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Mailed: January 9, 2012

Cancellation No. 92054840

NSM Resources Corporation

v.

Backcountry.com, Inc.

By the Trademark Trial and Appeal Board:

Petitioner's motion (filed January 4, 2012) for summary judgment is noted.

In Board *inter partes* proceedings commenced after November 1, 2007, a party may not file a motion for summary judgment under Trademark Rule 2.127(e)(1) until that party has made its initial disclosures, except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Board. See Trademark Rule 2.127(e)(1); *Compagnie Gervais Danone v. Precision Formulations LLC*, 89 USPQ2d 1251, 1255 (TTAB 2009); *Notice of Final Rulemaking*, 72 Fed. Reg. 42242, 42245 (August 1, 2007). The requirement that a party serve its initial disclosures prior to or concurrently with the filing of a motion for summary judgment cannot be waived. Because petitioner filed its motion prior to the deadline for initial disclosures (February 29, 2012) and because the record does not indicate that petitioner has

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served such disclosures, the motion for summary judgment is denied as premature.

Dates remain as previously set.