

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Nmt/wbc

August 13, 2019

Cancellation No. 92067982

Paradise International Inc.

v.

Adam Summers

Wendy Boldt Cohen, Interlocutory Attorney:

On June 7, 2019, Respondent filed a motion to compel discovery responses its interrogatory nos. 1-45, requests for production nos. 1-60 and requests for admission nos. 1-41. *See* 11 TTABVUE. Petitioner did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a). The motion to compel discovery responses to Respondent's interrogatories and requests for production is hereby **granted** as conceded as modified herein. *See* Trademark Rule 2.127(a); TBMP § 502.04 (2019); 11 TTABVUE 10-36.

Accordingly, Petitioner is directed to serve, within **30 days** of the mailing date of this order, responses to Respondent's Interrogatories and Document Requests. *See* 11 TTABVUE 10-36. Petitioner must respond in full and without objection on the merits

thereof inasmuch as Petitioner failed either to timely respond or to object to said discovery requests.¹

With respect to the requests for admission, inasmuch as the motion to compel procedure is not applicable to requests for admission, the motion is **denied** as it pertains to Respondent's requests for admission.² See TBMP §§ 411.03; 523.01 and authorities cited therein; 11 TTABVUE 37-44.

In the event that Petitioner fails to serve full responses as ordered herein, Respondent's remedy may lie in a motion for sanctions, as appropriate. See Trademark Rule 2.120(h)(1); TBMP § 411.05.

Respondent also filed a motion to amend its answer which is hereby granted as conceded. See 10 TTABVUE. The answer included with its motion is its operative pleading.

Proceedings are resumed. Dates are deemed tolled as of the filing of the motion to compel; dates are reset as indicated below:

Plaintiff's Pretrial Disclosures Due	August 27, 2019
Plaintiff's 30-day Trial Period Ends	October 11, 2019
Defendant's Pretrial Disclosures Due	October 26, 2019
Defendant's 30-day Trial Period Ends	December 10, 2019
Plaintiff's Rebuttal Disclosures Due	December 25, 2019
Plaintiff's 15-day Rebuttal Period Ends	January 24, 2020

BRIEFS SHALL BE DUE AS FOLLOWS:

¹ A party that fails to respond to interrogatories or document requests during the time allowed therefor, and that is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits. See *No Fear Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000); TBMP § 403.03.

² Pursuant to Fed. R. Civ. P. 36(a)(3), a matter is deemed admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney.

Plaintiff's Main Brief Due
Defendant's Main Brief Due
Plaintiff's Reply Brief Due

March 24, 2020
April 23, 2020
May 8, 2020

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).