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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92067982
Party	Defendant Adam Summers
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Submission	Motion for Discovery Sanctions
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Paradise International Inc.,  
Petitioner,

v.

Adam Summers,  
Registrant.

Cancellation No. 92067982

Registration No. 4423790  
For TrueRatings

REGISTRANT’S MOTION FOR SANCTIONS  
DUE TO PETITIONER’S FAILURE TO COMPLY WITH BOARD ORDER AND TO SUSPEND

Registrant, Adam Summers (“Registrant”), by and through his counsel, moves pursuant to 37 C.F.R. 2.120(g) and TBMP § 527.01 for an order striking the Petition for Cancellation of Petitioner, Paradise International Inc. (“Petitioner”), and entering judgment against Petitioner as sanctions for Petitioner’s failure to comply with and blatant disregard of the Board’s August 13, 2019 discovery order (“Order”). In support of its motion, Registrant states as follows.

**I. Background**

On March 26, 2019, Registrant served on Petitioner its Initial Disclosures, its First Set of Interrogatories to Petitioner (“Interrogatories”), its First Set of Requests for Production of Documents and Things to Petitioner (“Document Requests”), and its First Set of Requests for Admission to Petitioner (“Requests for Admission”). The Petitioner’s answers and responses to the Interrogatories, Document Requests, and Requests for Admission were due by April 25, 2019. The Petitioner failed to respond to Registrant’s discovery requests. Consequently, on June 7, 2019, Registrant filed a motion to compel discovery responses from Petitioner. The Petitioner filed no response to that motion with the Board.

On August 13, 2019, the Board issued an Order granting Registrant’s motion to compel, giving Petitioner thirty days, or until September 12, 2019, to serve upon Registrant complete

responses to all interrogatories and all document requests, without objection. Petitioner has not requested of Registrant, nor has it sought from the Board, an extension of time to comply with the Order.

According to the schedule set forth in the Order, Registrant's pretrial disclosures come due October 26, 2019.

## **II. Argument**

Failure to comply with a discovery order of the Board permits the Board to enter appropriate sanctions against the disobedient party. 37 C.F.R. 2.120(g). These sanctions include: (1) entering judgment against the disobedient party, (2) striking all or part of the pleadings of the disobedient party, (3) refusing to allow the disobedient party to support or oppose designated claims or defenses, (4) drawing adverse inferences against the uncooperative party, and (5) prohibiting the disobedient party from introducing designated matters in evidence. *Id.*; TBMP § 527.01. Therefore, under 37 C.F.R. 2.120(g) and TBMP § 527.01, the Board has the authority to strike Petitioner's pleadings and to enter judgment against the Petitioner for failure to comply with its Order. *Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.* (TTAB 1977) (sanctions of default judgment entered against applicant for failure to comply with order to respond to discovery requests and for providing no reason for its failure to do so.).

Petitioner has failed to comply with the Order. Due to Petitioner's failure to respond to its discovery requests, Registrant is left to assume that Petitioner has abandoned this proceeding, as well as the underlying Petition for Cancellation. If Petitioner has abandoned this case, Registrant submits that he should not have to go through the expense and effort of a trial. Petitioner's deliberate inaction illustrates that it has no intention of complying with the Board's Order or its discovery obligations in this proceeding. As a result, the Board should sanction Petitioner by

striking the Petition for Cancellation and then entering judgment in Registrant's favor pursuant to 37 C.F.R. 2.120(g) and TBMP § 527.01.

Finally, because this motion constitutes a potentially dispositive motion, Registrant respectfully requests that the Board suspend this proceeding pending the disposition of this motion.

### **III. Prayer for Relief**

Registrant prays that the Board issue an order striking the Petitioner's Petition for Cancellation and entering a default judgment against the Petitioner in this proceeding.

Respectfully submitted,

October 24, 2019

By: s/Alisa C. Simmons/  
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing *Registrant's Motion for Sanctions Due to Petitioner's Failure to Comply with Board Order and to Suspend* was served by email upon Petitioner at its address of record set forth below:

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on this 24th day of October, 2019.

s/Alisa C. Simmons/  
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