

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

VV/wbc

March 29, 2021

Cancellation No. 92074333

Dagamma Ecommerce Solutions Inc.

v.

American Ventures Group Inc.

Wendy Boldt Cohen, Interlocutory Attorney:

On February 24, 2021, Petitioner filed a motion to compel discovery responses (8 TTABVUE). Respondent did not file a brief in response thereto within the time provided under Trademark Rule 2.127(a).

Petitioner seeks an order directing Respondent to respond in full to Petitioner's First Set of Request of Production of Documents, namely, nos. 29 and 37-41 and to supplement discovery responses to the remainder of Petitioner's document requests. *Id.* The motion to compel discovery is hereby **GRANTED** as conceded. *See* Trademark Rule 2.127(a); TBMP § 502.04.

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.

Accordingly, Respondent is directed to serve, within **twenty (20) days** of the mailing date of this order, full responses to Petitioner's document request nos. 29 and 37-41 and to supplement Respondent's responses to the remainder of Petitioner's document requests. Respondent must respond in full and without objection on the merits thereof. *Id.*

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

Proceedings are **RESUMED**. The remaining trial dates are reset as follows:

| | |
|---|------------|
| Expert Disclosures Due | 6/24/2021 |
| Discovery Closes | 7/24/2021 |
| Plaintiff's Pretrial Disclosures Due | 9/7/2021 |
| Plaintiff's 30-day Trial Period Ends | 10/22/2021 |
| Defendant's Pretrial Disclosures Due | 11/6/2021 |
| Defendant's 30-day Trial Period Ends | 12/21/2021 |
| Plaintiff's Rebuttal Disclosures Due | 1/5/2022 |
| Plaintiff's 15-day Rebuttal Period Ends | 2/4/2022 |
| Plaintiff's Opening Brief Due | 4/5/2022 |
| Defendant's Brief Due | 5/5/2022 |
| Plaintiff's Reply Brief Due | 5/20/2022 |
| Request for Oral Hearing (optional) Due | 5/30/2022 |

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).