

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](mailto:TTABInfo@uspto.gov)

dmd

August 30, 2023

Cancellation No. 92078302

*Seneca Foods Corporation*

*v.*

*Gemsa Enterprises, LLC dba Gemsa Oils*

**J. Krisp, Interlocutory Attorney:**

On September 21, 2022, Petitioner filed a filed a motion to compel discovery.<sup>1</sup> 15 TTABVue 2. Respondent did not file a brief in response thereto within the time provided by Trademark Rule 2.127(a).

Petitioner moved for an order directing Respondent to serve full, complete and verified responses and supplemental to Petitioner's first set of interrogatories, and to serve supplemental responses to, and produce documents responsive to, Petitioner's first set of requests for production of documents and things.

Petitioner's motion to compel discovery is hereby granted as conceded. See Trademark Rule 2.127(a); TBMP § 502.04.

Accordingly, Respondent is allowed until **thirty days from the mailing date of this order** to serve verified responses and supplemental responses to Petitioner's

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<sup>1</sup> The Board regrets the delay in addressing this matter.

first set of interrogatories and first set of requests for production of documents and things.

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

### **Schedule**

Proceedings are resumed. Discovery, disclosure, and trial dates are reset as indicated below:

Expert Disclosures Due	9/30/2023
Discovery Closes	10/30/2023
Plaintiff's Pretrial Disclosures Due	12/14/2023
Plaintiff's 30-day Trial Period Ends	1/28/2024
Defendant's Pretrial Disclosures Due	2/12/2024
Defendant's 30-day Trial Period Ends	3/28/2024
Plaintiff's Rebuttal Disclosures Due	4/12/2024
Plaintiff's 15-day Rebuttal Period Ends	5/12/2024
Plaintiff's Opening Brief Due	7/11/2024
Defendant's Brief Due	8/10/2024
Plaintiff's Reply Brief Due	8/25/2024
Request for Oral Hearing (optional) Due	9/4/2024

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

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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).