

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

Mailed: January 27, 2009

Opposition No. 91179480
91179842

Plasti-Fab Ltd.

v.

Kobelco Construction Machinery
Co., Ltd.

Linda Skoro, Interlocutory Attorney

This case comes up on opposer's renewed motion to compel discovery responses, filed November 26, 2008. The motion is unopposed.

The substance of opposer's motion to compel is that discovery was timely served on applicant on September 2, 2008, consisting of the first set of interrogatories and request for production of documents. As of the date of filing of this motion, applicant has not provided responses or requested a further extension of time to serve responses.¹

¹ It is noted that having received no response, opposer's counsel indicates that applicant "has shown every intention of responding" and that applicant filed an extension request, which it retroactively consented to. Opposer further states that because its testimony period was about to open, it filed its motion to compel. However, there is no allegation of any good

In that applicant did not oppose this motion, it is granted. Trademark Rule 2.127(a). Applicant shall respond to opposer's interrogatories and request for production without objection. Applicant has **thirty** days from the date hereof to fully answer the outstanding discovery. Any unanswered requests for admissions are hereby deemed admitted. If applicant fails to comply with this order, opposer is free to file a motion for the entry of default judgment under Trademark Rule 2.120(g)(1).

Proceedings herein will remain suspended pending a response by applicant to this order. Should opposer receive discovery responses, it should advise the Board and request a resetting of the trial dates.

faith effort made to obtain applicant's discovery responses. While this is usually fatal to a motion to compel, because the motion is uncontested, the motion is being granted.