

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

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Mailed: February 3, 2014

Opposition Nos. 91203277 (parent)  
91203279

3D International, LLC

v.

Palm Beach Motoring  
Accessories, Inc.

**Yong Oh (Richard) Kim, Interlocutory Attorney:**

This matter comes up on applicant's motion (filed January 27, 2014) to compel opposer's supplemental discovery responses to certain of applicant's interrogatories and document requests.<sup>1</sup> The motion is contested.

Discovery closed on January 26, 2014, as reset. As applicant's motion was filed on January 27, 2014, prior to the opening of the first testimony period, the motion is timely. See Trademark Rule 2.120(e)(1).

However, a motion to compel must be supported by a written statement from the movant that such party, or its attorney, has made a good faith effort, by conference or correspondence, to

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<sup>1</sup> Applicant's amended answer of November 27, 2013, is noted and is now applicant's operative pleading herein.

resolve with the other party, or its attorney, the issues presented in its motion, and has been unable to reach agreement. See Trademark Rule 2.120(e)(1) and TBMP § 523.02 (2013). Applicant has failed to certify that it has made a good faith effort to resolve the issues that form the basis of applicant's motion to compel. Indeed, in reviewing the motion, it is apparent that no effort was put forth by applicant to even communicate to opposer applicant's concerns regarding any perceived deficiencies in opposer's discovery responses and production. Board intervention should only be sought in relation to those discovery disputes that the parties have been unable to resolve ***despite their best efforts to do so.***

Accordingly, the Board finds that applicant has failed to discharge the good faith requirement of Trademark Rule 2.120(e)(1) and hereby **DENIES without prejudice** applicant's motion to compel. Both counsels are hereby ordered to confer<sup>2</sup> regarding the discovery requests that remain in dispute within **THIRTY DAYS** of the mailing date of this order. If the parties remain unable to resolve the discovery dispute, a second motion to compel may be filed. Any future failure to cooperate or to

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<sup>2</sup> Any future motion to compel will not be considered without a telephonic conference between the parties discussing each and every discovery request or response/production in dispute.

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otherwise act in good faith in the discovery process by either party will be looked upon by the Board with extreme disfavor.

Dates are **RESET** as follows:

Plaintiff's Pretrial Disclosures Due	4/11/2014
Plaintiff's 30-day Trial Period Ends	5/26/2014
Defendant's Pretrial Disclosures Due	6/10/2014
Defendant's 30-day Trial Period Ends	7/25/2014
Plaintiff's Rebuttal Disclosures Due	8/9/2014
Plaintiff's 15-day Rebuttal Period Ends	9/8/2014

**IN EACH INSTANCE**, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within **thirty days** after completion of taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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