

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

Mailed: November 7, 2012

Opposition No. 91206026

Victualic Company

v.

Shurjoint Piping Products,  
Inc.

**Cheryl S. Goodman, Interlocutory Attorney:**

On November 7, 2012, opposer filed a request for clarification of the Board's suspension order issued October 22, 2012.

In particular, opposer indicated that it seeks clarification from the Board as to whether, in view of the Board's suspension order, discovery is suspended in this case until after the Board has ruled on the pending motion for judgment on the pleadings. Opposer advises that applicant does not construe the Board's suspension order "to affect Victaulic's obligation to respond to discovery propounded upon it in a timely manner under the rules . . . . and will consider Victaulic's failure to respond to discovery propounded upon it within the 30 days (plus mailing) . . . to constitute a waiver of all objections."

This order provides further clarification to the parties with regard to the Board's suspension order issued on October 22, 2012.

The parties are presumed to know that the filing of a potentially dispositive motion will result in a Board issued suspension order, and that the filing of such a motion generally will provide parties with good cause to cease or defer activities unrelated to the briefing of such motion such as propounding discovery or service of discovery responses thereto. *Leeds Technologies Ltd. v. Topaz Communications Ltd.*, 65 USPQ2d 1303, 1305-06 (TTAB 2002).

In *Leeds Technology*, the Board addressed opposer's request to suspend discovery pending disposition of the motion for judgment on the pleadings. The Board considered proceedings suspended retroactive to the date of filing of the motion for judgment on the pleadings. The Board further found good cause for opposer to have not responded to outstanding discovery requests, and provided opposer with an opportunity to serve its responses to applicant's discovery upon resumption.

Accordingly, to avoid future motion practice on these discovery matters, and in view of the potentially dispositive motion now pending before the Board as well as the suspension order which issued on October 22, 2012, the parties are directed to defer all activities with respect to

discovery during the pendency of the motion for judgment on the pleadings. Service of responses to discovery shall be reset upon resumption. *Leeds Technologies*, 65 USPQ2d at 1305-06 (TTAB 2002).

Proceedings herein remain suspended pending disposition of the motion for judgment on the pleadings.