

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514**

Mailed: October 6, 2004

Cancellation No. 92032631

BACOU USA SAFETY, INC.

v.

CENTRAL MANUFACTURING CO.

Albert Zervas, Interlocutory Attorney

On October 1, 2004, the Interlocutory Attorney assigned to this case received a phone call from Leo Stoller, respondent's President, requesting permission to file a motion in this proceeding. The Interlocutory Attorney instructed Mr. Stoller to make his request in writing, to send a copy of his request via facsimile to the Board and to serve a copy of his request on petitioner's attorney. Later that day, the Board received a facsimile copy of respondent's request for permission to file a motion. See enclosed copy.

The Board's order of July 24, 2003 states as follows:

[A]s a sanction for filing its groundless Rule 11 motion, respondent is hereby prohibited from filing any further motions in this case whatsoever, including a motion for reconsideration of this order. This sanction is effective for the duration of this proceeding and petitioner should not respond to any motion filed by respondent.

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Any violation of this order shall result in entry of judgment against respondent.

Because the Board's July 24, 2003 order prohibits respondent "from filing any further motions in this case whatsoever" and does *not* state that respondent may seek permission from the Board to file a motion, respondent's request of October 1, 2004 to file a motion is denied.¹

Discovery and trial dates remain as set in the Board's order mailed on August 2, 2004.

A copy of this order is being sent to the parties' representatives by facsimile.

¹ It appears that respondent's motion would likely be denied - respondent seeks to "use Mr. Webber's discovery deposition [from another proceeding] for Respondent's testimony" pursuant to Trademark Rule 2.122(f). The Board has interpreted the term "testimony" as used in Trademark Rule 2.122(f) as meaning only trial testimony or a discovery deposition which was used, by agreement of the parties, as trial testimony in the other proceeding. See TBMP § 530 (2d ed. rev. 2004).