

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

KSK

Mailed: June 10, 2002

Cancellation No. 40,100

Equistar Chemicals LP

v.

Reichhold, Inc.

Karen Kuhlke, Attorney:

On March 13, 2002, respondent filed a motion to dismiss based on petitioner's failure to serve discovery responses. Thereafter, on April 29, 2002, petitioner filed a combined withdrawal of the petition to cancel and request to withdraw the final objection and allow issuance of the notice of allowance for petitioner's pending application.

First, with regard to respondent's motion to dismiss it is denied as premature. The appropriate action to take before the Board when a party fails to serve discovery responses is a motion to compel.

Turning now to petitioner's combined motion, the Board advises petitioner that the Board does not have jurisdiction over petitioner's pending application. Therefore, in order for the parties' consent agreement which pertains to

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petitioner's application to be considered, petitioner must file the consent agreement with the examining attorney.

Inasmuch as the withdrawal of the petition appears to be conditioned upon acceptance of the consent agreement and allowance of petitioner's pending application, proceedings herein are suspended pending submission and review by the examining attorney of the consent agreement.

Upon decision by the examining attorney, the parties should inform the Board in writing how they wish to proceed.

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