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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALS BOARD

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

Cancellation No. 92043900

7/3/420918

COVER LETTER

Sir:

Please find enclosed for filing with the Trademark Trial and Appeals Board, the following document(s):

1. Petitioner's Motion to Compel and Extend Discovery
2. Appendices A-D

In accordance with the Federal Rules of Civil Procedure, as incorporated by Trademarks Rule 2.116, Petitioner has served Respondent.

Respectfully submitted,

Michael C. Whitticar

JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030
703.591.2664 (Phone)
703.591.5907 (Facsimile)

May 15, 2006



05-15-2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALS BOARD**

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

Cancellation No. 92043900

PETITIONER'S MOTION TO COMPEL AND EXTEND DISCOVERY

Petitioner, Omnova Solutions, Inc., hereby moves the Board to extend discovery for failure of Respondent, The Die Gem Co., Inc., to provide timely responses to relevant discovery requests.

As grounds for its motion, Petitioner states:

1. Petitioner served Petitioner's First Set of Interrogatories and Petitioner's Second Set of Request for the Production of Documents and Things to Respondent on March 16, and provided a 30-day deadline for responding. A copy of Petitioner's discovery requests are enclosed in the Appendix.

2. By April 17, 2006, Petitioner had received no response or reply from Respondent.

3. On May 4, 2006, Petitioner requested that Respondent provide a response to Petitioner's outstanding discovery requests. A copy of the letter is enclosed in the Appendix.

4. On May 11, 2006, Respondent sent a Fed Ex package containing a response which was received on May 12, 2006. A copy of the Respondent's response is enclosed in the Appendix.

5. In Respondent's response to Petitioner's First Set of Interrogatories and Petitioner's Second Set of Request for the Production of Documents and Things to Respondent, the Respondent made several objections to the relevancy and stated that certain information was protected as trade secrets.

6. On November 16, 2005, the parties signed a Protective Agreement which was made effective by the Board on March 2, 2006. A copy of the Protective Agreement is enclosed in the Appendix.

7. Respondent, in answering Petitioner's First Set of Interrogatories and Petitioner's Second Set of Request for the Production of Documents and Things to Respondent, failed to properly assert trade secret protection as provided for by the Protective Agreement.

8. In addition, since Respondent did not timely answer or object to Petitioner's First Set of Interrogatories and Petitioner's Second Set of Request for the Production of Documents and Things to Respondent, Respondent waived all other objections.

9. Petitioner's discovery requests are relevant to showing abandonment of the mark on the goods on which the Mark is registered.

10. Unless enlarged, the period for discovery closes today, May 15, 2006.

11. Respondent's objections should be overruled and Petitioner should be ordered to immediately provide all responsive discovery and documents.

12. Otherwise, Petitioner needs additional time to confer with the Respondent to reach an agreement to resolve the untimely and inadequacy responses to Petitioner's discovery requests to avoid filing any Motion to Compel.

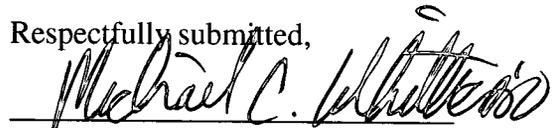
13. Petitioner requires additional time to obtain and review the withheld discovery and to then take Respondent's deposition.

14. This motion to extend discovery is being made with good cause and without the consent the Respondent.

CONCLUSION

Therefore, it is respectively requested that the Board grant this motion, order Respondent to provide the requested discovery, and extend the period for discovery by 120 days to run from the date subsequent to the date of the Board's ruling.

Respectfully submitted,



Michael C. Whitticar, Attorney for
the Petitioner

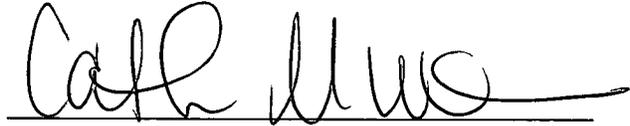
JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030
703.591.2664 (Phone)
703.591.5907 (Facsimile)

Date: May 15, 2006

Cancellation No. 92043900

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May 2006, a true copy of the foregoing Motion to Compel and Extend Discovery was sent by first-class mail, properly addressed and postage prepaid, to The Die Gem Co., Inc., P.O. Box 8033, Maple Valley Station, Akron, OH 44320.

A handwritten signature in black ink, appearing to read "Catherine M. Whelan", written over a horizontal line.

Catherine M. Whelan

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALS BOARD**

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

Cancellation No. 92043900

PETITIONER'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, as incorporated by Trademarks Rule 2.116, Petitioner, Omnova Solutions, Inc., requests Respondent, The Die Gem Co., Inc., to answer the following interrogatories, in writing under oath, and deliver such written answers to the Petitioner's attorneys, Jagtiani + Guttag, 10363-A Democracy Lane, Fairfax, VA 22030, Attention Michael C. Whitticar, within thirty (30) days of the service hereof or at such other time and place as the parties agree.

DEFINITIONS

A. The use of "you," "your," or "Respondent" refers to the Respondent, The Die Gem Co., Inc., KEL-EEZ, their parents, subsidiaries, affiliates, controlled corporations, predecessors, successors, assigns, and all of their agents, employees, and attorneys, and any other person or entity acting on behalf of any of them.

B. "Person" means any natural person, firm, association, corporation,

business, or other entity.

C. "And" and "or" shall be constructed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the words "include(s)" and "including" shall be construed to mean "without limitation".

D. "Identify" when used with respect to natural persons means to provide sufficient information, including name, title, home and business addresses and telephone numbers, such that a subpoena may be issued and served on that person.

E. "Identify" or "state the identity" means: with reference to a person, see definition of "person" above, with reference to communication, to state the persons or parties thereto, the date and subject matter thereof; "communication" refers to any and all written documents between two or more persons, or oral communications, including telephone communications, personal conferences, meetings or otherwise between two or more persons. With respect to a document, see definition of "document" and "documentation" below.

F. "Describe" or "Description" (i) when used in reference to persons or the members of a class means to identify each individual person or member of a class and (ii) when used in reference to a document means to state the following as to each document:

- (a) the nature and contents thereof;
- (b) the date thereof;
- (c) the name, address and position of the author or signer thereof;
- (d) the name, address and position of the addressee, if any;
- (e) the present location thereof and the name, present address and position of the person or persons having present custody thereof.

G. "Document" or "documents" is any and all types of documents, objects, things, and recorded information, including, but not limited to, typewritten, photo static, handwritten, audio, video, of, including, but not limited to, a letter, telecopy/telefax, telex, telegram, memorandum, book, pamphlet, periodical, minutes of meetings, sound recording, video recording, computer record (whether active or inactive), transcripts of telephone conversations and/or informal meetings, diaries, report, record, study, interoffice or intraoffice communication, handwritten or other note, working paper, draft, application, permit, chart, graphs, paper, survey, index, tape disk, data sheet or data processing card, computer printout or any other written, visual, oral, recorded, transcribed, filed or graphic matter, however produced or reproduced, together with any attachments thereto or enclosures therewith, to which defendants have or have access to.

H. "Registered Mark", "Respondent's Mark", "'PEEL N STICK' Mark" or "your Mark" means U.S. Trademark Registration No. 1,384,270 for "PEEL N STICK".

I. "Petitioner's Mark" means the trademark applications for the design mark "PEEL & STICK" that the Petitioner has sought to register on the Principal Trademark Register in the United States; Serial Nos. 76/548,084 and 76/548,085.

J. "Abandonment" or "abandon" has the meaning under 15 U.S.C. § 1127, namely: "A mark shall be deemed to be 'abandoned' ... [w]hen its use has been discontinued with intent not to resume such use."

K. "Stock materials" means the raw materials that comprise a product or a component of a product.

L. "Component" means a part of a product that is integral with the product, but not sold or offered for sale, except as a replacement part, apart from the product.

INSTRUCTIONS

A. Where the name of a person or entity is requested, indicate the full name, home and business address of such person or entity, telephone number(s) (including area code), title, occupation, and employer. Where the person identified is a corporation, firm, or other entity, such identification shall also include the name of each individual connected with such corporation, firm, or entity with whom contact was made, the present or last known business and home address of such person, telephone number(s) (including area code), and the title and occupation of such person.

B. When the identification of a document is required, such identification shall include the name of the author or originator, the name of each addressee and/or recipient, including each addressee and/or recipient of each copy, the date which the document bears, a general description of its contents, the nature of the document (e.g., letter, memorandum, telegram, etc.) and the name of the present custodian of the original or originals and of each copy thereof bearing any marking or notation not found on the original. In lieu of identifying a document, you may attach a copy of the original and a copy of any non-identical copies to your answer to these interrogatories.

C. Where information or knowledge in possessing of a party is requested, such request includes knowledge of a party's agent, next friend, guardian or representative and, unless privileged, his attorneys.

D. Unless otherwise indicated, these interrogatories refer to the time, place, and circumstances of the occurrence mentioned or complained of in the pleadings through the date of your answer.

E. The singular of any word or phrase included the plural, regardless of whether explicitly stated.

F. If it is claimed that an answer to any interrogatory is privileged, work product, or otherwise protected from disclosure and such privilege or work product is asserted, identify such information by its subject matter and state with particularity to the facts, time period, and grounds constituting the nature and basis for any such claim of privilege, work product, or other ground for nondisclosure. Any part of an answer to which you do not claim privilege or work product should be given in full.

G. The time period covered by these interrogatories shall be January 1, 1997 through the present.

INTERROGATORIES

1. Identify each person or business entity that uses, has used, or previously used the registered mark "PEEL N STICK" on any products in the United States and state the role or function of such person or business entity (for example, indicate whether such person or business entity is a licensee, assignee, partner, subsidiary, *etc.*).

2. Identify all written agreements between the parties identified in response to question number 1.

3. Identify the current status of each party identified in response to question number 1.

4. Describe the business relationship between Die Gem and any

person, organization or business entity currently or formerly operating under the trade name or currently or formerly doing business as KEL-EEZ.

5. Identify all patent applications that were filed by Respondent's employees, affiliated persons, or inventors who assigned their rights to Respondent, regardless of whether the patent issued, that cover products or components of products which are sold under the mark "PEEL N STICK."
6. Identify any actual or threatened proceedings or enforcement actions brought by Die Gem or on behalf of Die Gem, including the sending of notice or cease-and-desist letters, to any third party for suspected potential or actual trademark infringement or dilution of the mark "PEEL N STICK" or for unfair competition.
7. Identify any third party whom Respondent has not contacted but whom Respondent at any time has believed, suspected or known is or was potentially or actual infringing or diluting the mark "PEEL N STICK" or is or was engaged in unfair competition based on any use of the mark "PEEL N STICK," on any product, goods or services.
8. Identify any incidents of actual or suspected trademark confusion reported by any third party or customer to Respondent based on any other person or entity using any variety or variant of "PEEL N STICK," "Peel and Stick," or "Peel & Stick."
9. Identify the person or persons having the most knowledge about the

creation, adoption or selection of the mark "PEEL N STICK," by Respondent.

10. Identify any and all searches or investigations performed by Respondent or on behalf of Respondent prior to filing the trademark application for the mark "PEEL N STICK."

11. Identify the stock materials used in or with products that are sold under or are associated with advertisements that use the phrase "PEEL N STICK metal seal."

12. Identify the stock materials used in or with products that are sold under or are associated with the brand "PEEL N STICK brass."

13. Identify the stock materials used in or with products that are sold under or bear the marks "PEEL N STICK," "SUPER PEEL N STICK," "PEEL N STICK Door Seals," and "PEEL N STICK Window Seals."

14. Identify the brand name(s) and/or trademark(s) that are used by Respondent on weather stripping having a primary stock material of metal or a major component which is primarily made of metal.

15. Identify the brand name(s) and/or trademark(s) that are used by Respondent on weather stripping having a primary stock material of natural or synthetic rubber or a major component which is primarily made of natural or synthetic rubber.

16. State and discuss whether and when Respondent uses or has used the term "PEEL N STICK" to refer to an adhesive.

17. State and discuss whether and when Respondent uses or has used

the term "PEEL N STICK" to refer to an adhesive property of weather stripping.

18. Identify when products bearing the mark "PEEL N STICK" began using a protective liner and/or cover.
19. Identify any use of the term "PEEL N STICK" by Respondent in conjunction with weather stripping that has a primary stock material made of metal.
20. Identify any use of the term "PEEL N STICK" by Respondent in conjunction with weather stripping having a major component which has a primary stock material made of metal.
21. Identify and describe the components or stock materials that are referred to by the phrase "easy installment with Peel N Stick" in connection with products sold under the brand name "Flexible Door Sweep."
22. Identify and describe the components, stock materials, and/or features to which the phrase "Fast Installation with PEEL N STICK fastening system" refer?
23. State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a natural or synthetic rubber or plastic seal used for weather stripping on a door or window frame.
24. State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a foam

seal used for weather stripping on a door or window frame.

25. State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a vinyl seal used for weather stripping on a door or window frame.

26. State and describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and those advertised or sold under the brand names "DOOR BOTTOM SEAL" or "BRASS BOTTOM SEAL."

27. State and describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and those advertised or sold under the brand names "COIL STRIP SEAL" or "BRASS STRIP SEAL."

28. Describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and the brand names "AIR TIGHT SEAL."

29. Describe the stock material of the component that bears or is advertised under the mark "PEEL N STICK" in the product advertised or sold under the brand name "THE DOOR FIXER."

30. Describe the stock material of the component that bears or is advertised under the mark "PEEL N STICK" in the product advertised or sold under the brand name "THE FLEXIBLE DOOR FIXER."

31. Describe the stock material of the component that bears or is advertised under the mark "SUPER PEEL N STICK" in the product

advertised or sold under the brand name "INSTA SEAL."

32. Describe the stock material of the component that bears or is advertised under the mark "SUPER PEEL N STICK" in the product advertised or sold under the brand name "TOP & SIDE SEAL."

33. Describe the stock material of the component that bears or is advertised under the mark "SUPER PEEL N STICK" in the product advertised or sold under the brand name "CENTER STRIP SEAL."

34. Identify the date, if any, that the mark "PEEL N STICK" was first used on natural or synthetic rubber weather stripping or weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

35. Identify the date, if any, that the mark "PEEL N STICK" was first used on metal weather stripping or weather stripping having a primary stock material made of metal or a major component made of metal.

36. Identify the date, if any, that the mark "PEEL N STICK" was first used on foam weather stripping or weather stripping having a primary stock material made of foam or a major component made of foam.

37. Identify the date, if any, that the mark "PEEL N STICK" was first used on vinyl weather stripping or weather stripping having a primary stock material made of vinyl or a major component made of vinyl.

38. Identify all weather stripping products by brand name, trade name, or trademark which have a primary stock material made of natural or synthetic rubber or a primary stock material made of natural or synthetic

rubber and are sold, marketed or distributed by Respondent.

39. Identify, by providing an annual total, all sales of products bearing the mark "PEEL N STICK" that are weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

40. Identify, by providing an annual total, the budget for advertising and promotional materials relating to products bearing or advertised under the mark "PEEL N STICK" that are weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

41. Identify, by providing an annual total, all sales of products bearing or advertised under the mark "PEEL N STICK" that are weather stripping having a primary stock material which is not made of natural or synthetic rubber or a major component which is not made of natural or synthetic rubber.

42. Identify, by providing an annual total, the budget for advertising and promotional materials relating to products bearing or advertised under the mark "PEEL N STICK" that are weather stripping having a primary stock material which is not made of natural or synthetic rubber or a major component which is not made of natural or synthetic rubber after April 11, 1983.

43. Identify any times in which Respondent, or any other party identified in response to question number 1, stopped using the mark

“PEEL N STICK” or stopped selling or advertising products bearing or advertised under the mark “PEEL N STICK.”

44. Identify all documents produced or provided to the United States Patent and Trademark Office or TTAB by Respondent which have not been provided to Petitioner or its Counsel.

45. Identify all documents and things in response to Petitioner’s First Set of Requests for the Production of Documents and Things served on January 18, 2005, that have not been produced Petitioner or its Counsel.

45. Identify all documents, things, or information Respondent has provided to the United States Patent and Trademark Office or the TTAB, but has not provided to Petitioner or its Counsel.

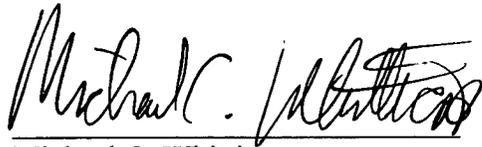
46. Identify all expert witnesses that Respondent plans or expects to retain or have testify in or for the pending cancellation proceeding for purposes of advice, consulting or testimony.

47. Identify each person who answered or provided information used in answering any of the preceding interrogatories, specifying the particular interrogatory such person helped answer or for which such person provided information.

48. Identify all documents and things which Respondent plants to use or may use as exhibits or evidence in the pending cancellation proceeding.

Cancellation No. 92043900

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael C. Whitticar", written over a horizontal line.

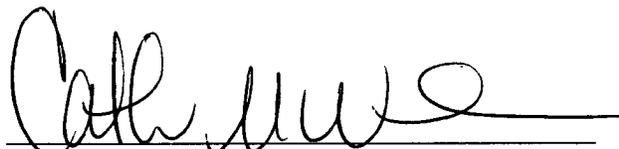
Michael C. Whitticar

JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030
703.591.2664 (Phone)
703.591.5907 (Facsimile)

Date: March 16, 2006

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March 2006, a true copy of the foregoing Petitioner's First Set of Interrogatories to Respondent was sent by first-class mail, properly addressed and postage prepaid, to The Die Gem Co., Inc., P.O. Box 8033, Maple Valley Station, Akron, OH 44320: Attn James Adams.


Catherine M. Whelan

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALS BOARD

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

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v.

THE DIE GEM CO., INC.,

Respondent.

Cancellation No. 92043900

**PETITIONER'S SECOND SET OF REQUESTS FOR
THE PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENT**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, as incorporated by Trademarks Rule 2.116, Petitioner, Omnova Solutions, Inc., requests that Respondent, The Die Gem Co., Inc., produce for inspection and copying the requested documents and things at the offices of Petitioner's attorneys, Jagtiani + Guttag, 10363-A Democracy Lane, Fairfax, VA 22030, Attention Michael C. Whitticar, within thirty (30) days of the service hereof or at such other time and place as the parties agree.

DEFINITIONS

A. The use of "you," "your," or "Respondent" refers to the Respondent, The Die Gem Co., Inc., KEL-EEZ, its parents, subsidiaries, affiliates, predecessors, successors, assigns, controlled corporations, and all of their agents, employees, and attorneys, and any other person or entity acting on any of their behalves.

B. "Person" means any natural persons, firms, associations, corporations, businesses, or other entities.

C. "Identify" when used with respect to natural persons means to provide sufficient information, including name, title, home and business addresses and telephone numbers, such that a subpoena may be issued and served on that person.

D. "Identify" when used with respect to all other entities (e.g., corporations, businesses, or other entities) means to provide the name, address(es), telephone number(s), relationship to Respondent, and other sufficient information, including the agents for service of process, that a subpoena may be issued and served on that entity.

E. "Identify" when used with respect to a document means to state the (1) type of document; (2) identifying or descriptive title, label, reference or file number of the document; (3) general subject matter; (4) date of the document; and (5) author(s), address(es), and recipient(s).

F. "Document" or "documents" is used in a comprehensive sense and shall include all manner of documents, things, and objects as defined in Federal Rule of Civil Procedure 34, including websites, e-mails and other electronic data, as well as all paper documents. To the extent that a document differs from other copies or originals of the same by reason of notations, comments, markings, or other differences, said document shall be deemed a separate document.

G. "Registered Mark", "Respondent's Mark", "'PEEL N STICK' Mark" or "your Mark" means U.S. Trademark Registration No. 1,384,270 for "PEEL N STICK."

H. "Petitioner's Mark" means the trademark applications for the design mark "PEEL & STICK" that the Petitioner has sought to register on the Principal Trademark Register in the United States; Serial Nos. 76/548,084 and 76/548,085.

I. "Abandonment" or "abandon" has the meaning under 15 U.S.C. § 1127,

namely: "A mark shall be deemed to be 'abandoned' ... [w]hen its use has been discontinued with intent not to resume such use."

J. "Stock materials" means the raw materials that comprise a product or a component of a product.

K. "Component" means a part of a product that is integral with the product, but not sold or offered for sale, except as a replacement part, apart from the product.

INSTRUCTIONS

A. Documents being produced in response to these requests shall be produced as they are maintained in the ordinary course of business and shall be labeled to correspond with and identify the request or requests to which they are responsive.

B. If any document that falls within a Request for Production of Documents was, but is no longer in your possession, custody or control, or is no longer in existence, state what disposition was made of it or what became of it and identify all persons having knowledge of or involvement in the disposition. No document requested to be produced herein should be destroyed or disposed of by virtue of a record retention program or for any other reason.

C. If any document is withheld from production hereunder on the basis of the claim of privilege or otherwise, please provide a privilege log identifying the type of each such document (e.g., letter, memo, fax, etc.), the creation date, the creator(s), the author(s) and recipient(s), the general subject matter of the document, and the specific grounds upon which its production is being withheld.

D. In your response to these Requests for Production of Documents, please

restate the text of each request preceding your response thereto.

E. These Requests shall be deemed continuing so as to require supplemental production if Respondent obtains or discovers the existence of any further information between February 3, 1997, and the close of the testimony period in the present proceedings.

F. The time period of these requests shall be January 1, 1997 through the present.

REQUESTS FOR PRODUCTION

Produce the following documents and things that are or have been in your possession, custody or control:

Request for Production No. 1. All documents and things which are responsive or partially responsive to Petitioner's First Set of Requests for the Production of Documents and Things served on January 18, 2005, in Respondent's possession which have not been provided to Respondent.

Request for Production No. 2. All documents which refer to any business, ownership, license, or other relationship between Die Gem and Kel-Eez, including any operating agreements, licenses, *etc.*

Request for Production No. 3. Samples of all products on which Respondent's mark has been used.

Request for Production No. 4. All documents which refer to any actual or threatened proceedings or enforcement actions brought by Die Gem or on behalf of Die Gem, including the sending of notice or cease-and-desist letters,

against any third party for potential or actual trademark infringement or dilution of the mark "PEEL N STICK" or unfair competition.

Request for Production No. 5. All documents identifying, discussing or disclosing the stock material of products or the stock material of components of product which bear the mark "PEEL N STICK."

Request for Production No. 6. All documents reflecting, identifying, discussing or disclosing that stock material of products or the stock material of components of products which bear the mark "PEEL N STICK" and which are made of natural or synthetic rubber.

Request for Production No. 7. All documents reflecting, identifying, discussing or disclosing that stock material of products or the stock material of components of product which bear the mark "PEEL N STICK" and which are made of metal.

Request for Production No. 8. All documents reflecting, identifying, discussing or disclosing the use of the mark "PEEL N STICK" to refer an adhesive or an adhesive property of weather stripping.

Request for Production No. 9. All documents identifying, discussing or disclosing the advantages or disadvantages of weather stripping having a stock material which is made of metal or a component which has a stock material made of metal over other types of non-metal weather stripping, including weather stripping having a stock material which is made of natural or synthetic rubber, plastic, vinyl or foam or components which has a stock material made of natural or synthetic rubber, plastic, vinyl or foam.

Request for Production No. 10. All documents reflecting, identifying, discussing or disclosing the use of the mark "PEEL N STICK" on a component of a weather stripping product having a different brand name, trade name or trademark.

Request for Production No. 11. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual sales of products bearing the mark "PEEL N STICK" used on weather stripping and having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

Request for Production No. 12. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual budget for advertising and promotional materials relating to products bearing the mark "PEEL N STICK" used on weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

Request for Production No. 13. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual sales of products bearing the mark "PEEL N STICK" used on weather stripping and having a primary stock material made of metal or a major component made of metal after April 11, 1983.

Request for Production No. 14. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual budget for advertising and promotional materials relating to products bearing the mark

“PEEL N STICK” used on weather stripping having a primary stock material made of metal or a major component made of metal.

Request for Production No. 14. All documents provided by or on behalf of Respondent to the United States Patent and Trademark Office or Trademark Trial and Appeal Board which have not been provided to Petitioner.

Request for Production No. 15. All documents that were gathered, considered, relied upon, reviewed or filed in support of the acquired distinctiveness claim in the trademark application that resulted in the registration of Respondent’s Mark, and all documents relating to, whether supporting or undermining, the acquired distinctiveness of Respondent’s Mark.

Request for Production No. 16. All documents reflecting or relating to communications sent or received to by or on behalf of Respondent to any third party relating to Petitioner or to the subject matter of this proceeding.

Request for Production No. 17. All documents and things relating to or reflecting any person, entity other than Die Gem Co., Inc. or OMNOVA Solutions, Inc. using any variation or variety of “Peel and Stick,” “PEEL N STICK,” “Peel & Stick” on or in connection with any household, insulation, weather-proofing, or building product or material in the United States.

Request for Production No. 18. All documents and things identified in response to or otherwise responsive to Petitioner’s First Set of Interrogatories.

Cancellation No. 92043900

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael C. Whitticar", written over a horizontal line.

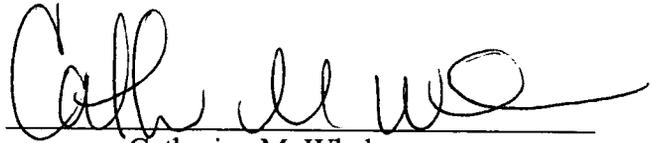
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Date: March 16, 2006

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March 2006, a true copy of the foregoing Petitioner's Second Set of Requests for the Production of Documents and Things to Respondent was sent by first-class mail, properly addressed and postage prepaid, to The Die Gem Co., Inc., P.O. Box 8033, Maple Valley Station, Akron, OH 44320: Attn James Adams.

A handwritten signature in cursive script, appearing to read "Catherine M. Whelan", written over a horizontal line.

Catherine M. Whelan



Jagtiani+Guttag
Protecting your ideas®

➤ **Via U.S. Mail & E-Mail (JRA@die-gem.com)**

May 4, 2006

Mr. James R. Adams, President
The Die-Gem Co., Inc.
P.O. Box 8033
Akron, OH 44320

➤ **Re: TTAB Cancellation No.: 92043900**
For: PEEL N STICK (U.S. REG. No. 1, 384,270)
OMNOVA Solutions, Inc. v. The Die-Gem Co., Inc.
Our Reference Number: 02-013-OMNO

Dear Mr. Adams:

We have received no response to the interrogatories or the document requests that we served on March 16, 2006. Please let us know immediately if you plan to answer the discovery and, if so, please ensure that we receive your answers and responsive documents in my office by May 12, 2006.

We also need your available dates for your deposition, which should be at least twenty days after the discovery responses are received in my office.

Sincerely,
JAGTIANI + GUTTAG

Michael C. Whitticar

MCW:cmw

cc: Mr. David G. Burleson, OMNOVA Solutions (Via E-Mail)

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P O Box 1451
Alexandria, Va. 23313-1451

Petitioner Omnova Solutions Inc
175 Ghent Road
Fairlawn Oh 44333-3300

92043900

V.

Respondent The Die-Gem Co., Inc.
One The Die-Gem Way
Akron, Ohio 44312-1539

May ¹¹~~10~~, 2006

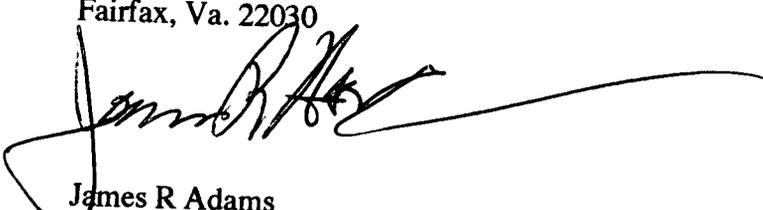
Sir:

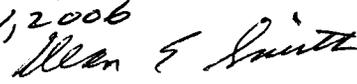
Please find enclosed the answer to discovery proceeding No. 92043900.

PETITIONER'S FIRST SET OF INTERROGATORIES
PETITIONER'S SECOND SET
REQUESTS FOR PRODUCTION 1/18/2005

I certify that the above listed items were served by FedEx overnight addressed to the representative of Omnova Solutions Inc. :

Mr. Michael C Whitticar
Jagtiani + Gutttag
10363-A Democracy Lane
Fairfax, Va. 22030


James R Adams
President
The Die-Gem Co., Inc.

WITNESSED SIGNATURE OF JAMES R ADAMS
MAY 11, 2006


DEAN E. SMITH, Attorney at Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.05 R. C.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND
APPEALS BOARD

U.S. Reg. No. 1,384,270

OMNOV A SOLUTIONS, INC., Cancellation No. 92043900

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

PETITIONER'S FIRST SET OF INTERROGATORIES

1.

Identify each person or business entity that uses, has used, or previously used the registered mark "PEEL N STICK" on any products in the United States and state the role or function.

The Die-Gem Co., Inc

2.

Identify all written agreements between the parties identified in response to question number 1.

None that we are aware of

3.

Identify the current status of each party identified in response to question number 1.

Not Applicable

4.

Describe the business relationship between Die Gem and any person, organization business entity currently or formerly operating under the trade name or currently or formerly doing business as KEL EEZ.

KEL-EEZ was incorporated as part of The Die-Gem Co., Inc. Dec.2, 1971 5.

Identify all patent applications that were filed by Respondent's employees, affiliated persons, or inventors who assigned their rights to Respondent, regardless of whether the patent issued, that cover products or components of products which are sold under the mark "PEEL N STICK."

SN# 2,095,669; 2,781,111; 2,865,061; 2,917,788

6.

Identify any actual or threatened proceedings or enforcement actions brought by Die Gem or on behalf of Die Gem, including the sending of notice or cease-and-desist letters, to any third party for suspected potential or actual trademark infringement or dilution of the mark "PEEL N STICK" or for unfair competition.

Several we no longer have on file; OMNOVA Solutions Inc., Polyguard Products, Henkel, Lippman Enterprises.

7.

Identify any third party whom Respondent has not contacted but whom Respondent at any time has believed, suspected or known is or was

potentially or actual infringing or diluting the mark "PEEL N STICK" or is or was engaged in unfair competition based on any use of the mark "PEEL N STICK," on any product, goods or services.

None at this time that we are aware of

8.

Identify any incidents of actual or suspected trademark confusion reported by any third party or customer to Respondent based on any other person or entity using any variety or variant of "PEEL N STICK," "Peel and Stick," or "Peel & Stick."

Arch, Sweets Internet

9.

Identify the person or persons having the most knowledge about the creation, adoption or selection of the mark "PEEL N STICK," by Respondent.

James R Adams President of The Die-Gem Co., Inc.

10.

Identify any and all searches or investigations performed by Respondent or on behalf of Respondent prior to filing the trademark application for the mark "PEEL N STICK."

The Mark PEEL N STICK™ was used nationally and internationally for approximately 13 years prior to registration with the United States Patent and Trademark Office. The Mark PEEL N STICK™ weatherstripping was exhibited in North America and Europe. The Mark PEEL N STICK™ weatherstripping was exhibited at jobber, distributor, lumber yard, chain

store hardware store food chain and government exhibits. Exposure was to buyers from retail, commercial and industrial markets as well as consumer HOW TO market. Over this period these exhibits were attended and/or supported by thousands of manufacturers from just about every country in the world.

11.

Identify the stock materials used in or with products that are sold under or are associated with advertisements that use the phrase "PEEL N STICK metal seal."

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

12.

Identify the stock materials used in or with products that are sold under or are associated with the brand "PEEL N STICK brass."

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

13.

Identify the stock materials used in or with products that are sold

under or bear the marks "PEEL N STICK," "SUPER PEEL N STICK," "PEEL N STICK Door Seals," and "PEEL N STICK Window Seals."

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

14.

Identify the brand name(s) and/or trademark(s) that are used by Respondent on weather stripping having a primary stock material of metal or a major component which is primarily made of metal.

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

15.

Identify the brand name(s) and/or trademark(s) that are used by Respondent on weather stripping having a primary stock material of natural or synthetic rubber or a major component which is primarily made of natural or synthetic rubber.

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The

Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

16.

State and discuss whether and when Respondent uses or has used the term "PEEL N STICK" to refer to an adhesive.

In the Cancellation Proceeding 9204300 the Respondent believes the question has no connection to Omnova Solutions Inc. contention that the Mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. In fact the Petitioner Omnova Solutions Inc. by this line of questioning is admitting that they have been aware of the Defendant use of the mark PEEL N STICK, for approximately 33 years, while contending that they could find no evidence of such use during that period of time or that it is continuing to be used and that The Die-Gem Co., Inc. has GREAT plans for the Continual use of the Mark PEEL N STICK. The continual use of the Mark Peel & Stick™ creates great pressure on The Die-Gem Co., Inc. which shows the continued bad faith of Omnova Solutions Inc.

17.

State and discuss whether and when Respondent uses or has used the term "PEEL N STICK" to refer to an adhesive property of weather stripping. In the cancellation proceeding the Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has

made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

18.

Identify when products bearing the mark "PEEL N STICK" began using a protective liner and/or cover. Reference to Answer to Cancellation Proceeding May 30, 2005.

19.

Identify any use of the term "PEEL N STICK" by Respondent in conjunction with weather stripping that has a primary stock material made of metal.

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

20.

Identify any use of the term "PEEL N STICK" by Respondent in conjunction with weather stripping having a major component which has a primary stock material made of metal.

Repeat of Question 19 directly above

21.

Identify and describe the components or stock materials that are referred to by the phrase "easy installment with Peel N Stick" in connection with products sold under the brand name "Flexible Door

Sweep."

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

22.

Identify and describe the components, stock materials, and/or features to which the phrase "Fast Installation with PEEL N STICK fastening system" refer?

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

23.

State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a natural or synthetic rubber or plastic seal used for weather stripping on a door or window frame.

The Respondent does not understand the question and in this cancellation proceeding the Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been

abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

24.

State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a foam seal used for weather stripping on a door or window frame. The Respondent does not understand what relation this query has to do with the cancellation proceeding. The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information trade secrets will be revealed.

25.

State and describe the difference between weather stripping products sold under the brand name "PEEL N STICK Brass" and a vinyl seal used for weather stripping on a door or window frame. The Respondent does not understand what relation this query has to do with the cancellation proceeding. The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no

intent to resume such use. By discussing this information trade secrets will be revealed.

26.

State and describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and those advertised or sold under the brand names "DOOR BOTTOM SEAL" or "BRASS BOTTOM SEAL."

The Respondent does not understand what relation this query has to do with the cancellation proceeding. The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information trade secrets will be revealed.

27.

State and describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and those advertised or sold under the brand names "COIL STRIP SEAL" or "BRASS STRIP SEAL."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such

use. By discussing this information, trade secrets will be revealed. By discussing this information, trade secrets will be revealed.

28.

Describe the differences in use, function, stock materials and components between products sold under the mark "PEEL N STICK" and the brand names "AIR TIGHT SEAL."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

29.

Describe the stock material of the component that bears or is advertised under the mark "PEEL N STICK" in the product advertised or sold under the brand name "THE DOOR FIXER."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

30.

Describe the stock material of the component that bears or is advertised under the mark "PEEL N STICK" in the product advertised or sold under the brand name "THE FLEXIBLE DOOR FIXER." .

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

31.

Describe the stock material of the component that bears or is advertised under the mark "SUPER PEEL N STICK" in the product advertised or sold under the brand name "INST A SEAL."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

32.

Describe the stock material of the component that bears or is advertised under the mark "SUPER PEEL N STICK" in the product advertised or sold under the brand name "TOP & SIDE SEAL."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

33.

Describe the stock material of the component that bears or IS advertised under the mark "SUPER PEEL N STICK" in the product advertised or sold under the brand name "CENTER STRIP SEAL."

The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

34.

Identify the date, if any, that the mark "PEEL N STICK" was first used on natural or synthetic rubber weather stripping or weather stripping

having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber. The Respondent believes the question has no connection to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. By discussing this information, trade secrets will be revealed.

35.

Identify the date, if any, that the mark "PEEL N STICK" was first used on metal weather stripping or weather stripping having a primary stock material made of metal or a major component made of metal.

Reference to Answer to Cancellation Proceeding May 30, 2005.

36.

Identify the date, if any, that the mark "PEEL N STICK" was first used on foam weather stripping or weather stripping having a primary stock material made of foam or a major component made of foam.

Reference to Answer to Cancellation Proceeding May 30, 2005.

37.

Identify the date, if any, that the mark "PEEL N STICK" was first used on vinyl weather stripping or weather stripping having a primary stock material made of vinyl or a major component made of vinyl.

Reference to Answer to Cancellation Proceeding May 30, 2005.

38.

Identify all weather stripping products by brand name, trade name, or trademark which have a primary stock material made of natural or synthetic rubber or a primary stock material made of natural or synthetic rubber and are sold, marketed or distributed by Respondent.

By discussing this information trade secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc.

contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

39.

Identify, by providing an annual total, all sales of products bearing the mark "PEEL N STICK" that are weather stripping having a primary stock material made of natural or synthetic rubber or a major component

made of natural or synthetic rubber.

As the petitioner Omnova Solutions Inc. knows The Die-Gem Co., Inc is a small company and if for no other reason this is the reason the Cancellation proceeding was brought upon The Die-Gem Co., Inc. The Die-Gem Co., Inc. has sold PEEL N STICK® Weatherstripping products in interstate commerce ever year since 1973. By breaking down information trade, secrets will be revealed. What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

40.

Identify, by providing an annual total, the budget for advertising and promotional materials relating to products bearing or advertised under

the mark "PEEL N STICK" that are weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

Marketing of PEEL N STICK® Weatherstripping products has changed because of technology from mass to individualized. The Die-Gem Co., Inc. has sold PEEL N STICK® Weatherstripping products in interstate commerce ever year since 1973. By breaking down information trade, secrets will be reviled.

What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned

and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

41.

Identify, by providing an annual total, all sales of products bearing or advertised under the mark "PEEL N STICK" that are weather stripping having a primary stock material which is not made of natural or synthetic rubber or a major component which is not made of natural or synthetic rubber.

What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

42.

Identify, by providing an annual total, the budget for advertising and promotional materials relating to products bearing or advertised under the mark "PEEL N STICK" that are weather stripping having a primary stock material which is not made of natural or synthetic rubber or a major component which is not made of natural or synthetic rubber after April 11, 1983.

What When where & how is privileged and has no relevance to Omnova Solutions Inc. contention that the mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use.

43.

Identify any times in which Respondent, or any other party identified in response to question number 1, stopped using the mark "PEEL N STICK" or stopped selling or advertising products bearing or advertised under the mark "PEEL N STICK."

See 1

44.

Identify all documents produced or provided to the United States Patent and Trademark Office or TTAB by Respondent which have not been provided to Petitioner or its Counsel.

We are unaware of any documents that have been provided to United States Patent and Trademark Office or TTAB that have not been provided to Petitioner or its Counsel.

45.

Identify all documents and things in response to Petitioner's First Set of Requests for the Production of Documents and Things served on January 18, 2005, that have not been produced Petitioner or its Counsel. Reference to Answer to Cancellation Proceeding May 30, 2005.

45.

Identify all documents, things, or information Respondent has provided to the United States Patent and Trademark Office or the TTAB, but has not provided to Petitioner or its Counsel.

See 44, #45 seems to be appearing a lot.

46.

Identify all expert witnesses that Respondent plans or expects to retain or have testify in or for the pending cancellation proceeding for purposes of advice, consulting or testimony.

At this time James R Adams

47.

Identify each person who answered or provided information used in answering any of the preceding interrogatories, specifying the particular interrogatory such person helped answer or for which such person provided information.

At this time James R Adams

48.

Identify all documents and things which Respondent plants to use or may use as exhibits or evidence in the pending cancellation proceeding.

No plants at this time

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRIAL AND APPEALS BOARD

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

Cancellation No. 92043900

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

PETITIONER'S SECOND SET

Request for Production No. 1. All documents and things which are responsive or partially responsive to Petitioner's First Set of Requests for the Production of Documents and Things served on January 18, 2005, in Respondent's possession which have not been provided to Respondent.

We are unaware of any

Request for Production No.2. All documents which refer to any business, ownership, license, or other relationship between Die Gem and KEL-EEZ®, including any operating agreements, licenses, etc.

SEE # 4 FIRST SET OF INTERROGATORIES

Request for Production No.3. Samples of all products on which Respondent's mark has been used.

Because of the large number not all are stocked

Request for Production No.4. All documents which refer to any actual or threatened proceedings or enforcement actions brought by Die Gem or on behalf of Die Gem, including the sending of notice or cease-and-desist letters,

against any third party for potential or actual trademark infringement or dilution of the mark "PEEL N STICK" or unfair competition.

SEE # 6 FIRST SET OF INTERROGATORIES

Request for Production No.5. All documents identifying, discussing or disclosing the stock material of products or the stock material of components of product which bear the mark "PEEL N STICK."

SEE # 11 FIRST SET OF INTERROGATORIES

Request for Production No.6. All documents reflecting, identifying, discussing or disclosing that stock material of products or the stock material of components of products which bear the mark "PEEL N STICK" and which are made of natural or synthetic rubber.

SEE # 11 FIRST SET OF INTERROGATORIES

Request for Production No.7. All documents reflecting, identifying, discussing or disclosing that stock material of products or the stock material of components of product which bear the mark "PEEL N STICK" and which are made of metal.

SEE # 11 FIRST SET OF INTERROGATORIES

Request for Production No.8. All documents reflecting, identifying, discussing or disclosing the use of the mark "PEEL N STICK" to refer an adhesive or an adhesive property of weather stripping.

Request for Production No.9. All documents identifying, discussing or disclosing the advantages or disadvantages of weather stripping having a stock material which is made of metal or a component which has a stock material made of metal over other types of non-metal weather stripping, including weather stripping having a stock material which is made of natural or synthetic rubber, plastic, vinyl or foam or components which has a stock material made of natural or synthetic rubber, plastic, vinyl or foam.

SEE # 14 FIRST SET OF INTERROGATORIES

Request for Production No. 10. All documents reflecting, identifying, discussing or disclosing the use of the mark "PEEL N STICK" on a component of a weather stripping product having a different brand name, trade name or trademark.

SEE # 14 FIRST SET OF INTERROGATORIES

Request for Production No. 11. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual sales of products bearing the mark "PEEL N STICK" used on weather stripping and having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

SEE # 19 FIRST SET OF INTERROGATORIES

Request for Production No. 12. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual budget for

advertising and promotional materials relating to products bearing the mark

"PEEL N STICK" used on weather stripping having a primary stock material made of natural or synthetic rubber or a major component made of natural or synthetic rubber.

SEE # 34 FIRST SET OF INTERROGATORIES

Request for Production No. 13. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual sales of products bearing the mark "PEEL N STICK" used on weather stripping and having a primary stock material made of metal or a major component made of metal after April 11, 1983.

SEE # 34 FIRST SET OF INTERROGATORIES

Request for Production No. 14. All documents which disclose, summarize, memorialize, show or relate to Respondent's annual budget for advertising and promotional materials relating to products bearing the mark

"PEEL N STICK" used on weather stripping having a primary stock material made of metal or a major component made of metal.

SEE # 35 FIRST SET OF INTERROGATORIES

Request for Production No. 14. All documents provided by or on behalf of Respondent to the United States Patent and Trademark Office or Trademark

Trial and Appeal Board which have not been provided to Petitioner.

None that we are aware of.

Request for Production No. 15. All documents that were gathered, considered, relied upon, reviewed or filed in support of the acquired distinctiveness claim in the trademark application that resulted in the registration of Respondent's Mark, and all documents relating to, whether supporting or undermining, the acquired distinctiveness of Respondent's Mark.

All information and exhibits are available online

Request for Production No. 16. All documents reflecting or relating to communications sent or received to by or on behalf of Respondent to any third party relating to Petitioner or to the subject matter of this proceeding. We do not believe there are any

Request for Production No. 17. All documents and things relating to or reflecting any person, entity other than Die Gem Co., Inc. or OMNOVA Solutions, Inc. using any variation or variety of "Peel and Stick," "PEEL N STICK," "Peel & Stick" on or in connection with any household, insulation, weather-proofing, or building product or material in the United States. See attached # 1

Request for Production No. 18. All documents and things identified

in response to or otherwise responsive to Petitioner's First Set of Interrogatories.

Which First Set or see one above

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALS BOARD

U.S. Reg. No. 1,384,270

OMNOVA SOLUTIONS, INC.,

Cancellation No. 92043900

Petitioner;

v.

THE DIE GEM CO., INC.,

Respondent.

REQUESTS FOR PRODUCTION 1/18/2005

Request for Production No.1. Specimens of each label, tag, trade dress, or package ever used by Respondent in connection with the use, sale, or advertisement of products bearing, advertised or offered for sale under the "PEEL N STICK" mark prior to October 28, 2001, and documents sufficient to show the time periods during which each item was and was not used, employed or distributed.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No.2. Specimens of each label, tag, trade dress, or package ever used by Respondent in connection with the use, sale, or advertisement of products bearing, advertised or offered for sale under the "PEEL N STICK" mark on or after October 28, 2001, and documents sufficient to show the time periods during which each item was and was not used, employed or distributed.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No.3. All documents that refer or relate to the marketing, distribution, sale, advertising, or promotion of Respondent's products bearing, advertised or offered for sale under the "PEEL N STICK" mark prior to October 28, 2001, and documents sufficient to show the time periods during which each product was and was not advertised, sold or offered for sale.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No.4. All documents that refer or relate to the marketing, distribution, sale, advertising, or promotion of Respondent's products bearing, advertised or offered for sale under the "PEEL N STICK" mark on or after October 28, 2001, and documents sufficient to show the time periods during which each product was and was not advertised, sold or offered for sale.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No.5. All documents relating to each other person or entity known or believed by Respondent or its counsel at any time to have used or to be using the marks "PEEL N STICK," "PEEL & STICK," "PEEL and STICK", any variant thereof, or any substantially similar mark, logo, brand name, or product descriptor.

See attached # 1

Request for Production No.6. All documents that refer or relate to

any license, assignment or transfer of the Respondent's Mark to or from any other person or third party, and all documents relating to or identifying each such other person or third party.

Unaware of Any

Request for Production No.7. All documents that refer or relate to any exclusive or nonexclusive license or license agreement of the Respondent's Mark to or from any other person or third party, and all documents relating to or identifying each such other person or third party.

Unaware of Any

Request for Production No.8. All documents that were gathered, considered, relied upon, reviewed or filed in support of the acquired distinctiveness claim in the trademark application that resulted in the registration of Respondent's Mark, and all documents relating to, whether supporting or undermining, the acquired descriptiveness of Respondent's Mark

All known are available at THE UNITED STATES PATENT AND TRADEMARK OFFICE

Request for Production No.9. All documents that refer or relate to any discussions, considerations, negotiations or implementations about or concerning possibly or actually replacing Respondent's Mark, logo, name, brand name or other product descriptor with another mark or about possibly or actually adopting another mark, logo, name,

brand name, or other product descriptor for use in connection with Respondent's products or services.

To our recollection OMNOVA Solutions Inc. See Attached Request for Production No. 10. All documents that refer or relate to any discussions, considerations, negotiations or implementations about or concerning possibly or actually replacing any product, logo, name, brand name or other product descriptor bearing, advertised or offered for sale under Respondent's Mark with another product bearing a different mark, brand name, logo or product descriptor, and all documents relating to or identifying the different mark, brand name, logo or product descriptor.

To our recollection OMNOVA Solutions Inc. See Attached Request for Production No. 11. All documents that refer or relate to any discussions, considerations, negotiations or implementations about or concerning possibly or actually withdrawing or discontinuing any product, logo, name, brand name or other product descriptor bearing, advertised or offered for sale under Respondent's Mark with another product bearing a different mark, brand name, logo or product descriptor, and all documents relating to or identifying the different mark, brand name, logo or product descriptor.

To our recollection OMNOVA Solutions Inc. See Attached # 1 Request for Production No. 12. All documents that constitute, refer to or relate to the use of or specimens of each label, tag, trade dress, or package showing the use of Respondent's Mark on products

other than weather stripping, and documents sufficient to show each period of time

tag, trade dress, or package was or was not used on products other than weather stripping.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No. 13. All documents, marks, and specimens of weather stripping products advertised, sold or offered for sale by Respondent other than those products which bear, are advertised under, or are offered for sale under the "PEEL N STICK" Mark.

In the Cancellation Proceeding 9204300 the Respondent believes the question has no connection to Omnova Solutions Inc. contention that the Mark PEEL N STICK has been abandoned and that The Die-Gem Co., Inc. has made no use of it in connection with any goods for at least three years ... and has no intent to resume such use. In fact the Petitioner Omnova Solutions Inc. by this line of questioning is admitting that they have been aware of the Defendant use of the mark PEEL N STICK, for approximately 33 years, while contending that they could find no evidence of such use during that period of time or that it is continuing to be used and that The Die-Gem Co., Inc. has GREAT plans for the Continual use of the Mark PEEL N STICK. The continual use of the Mark Peel & Stick™ creates great pressure on The Die-Gem Co., Inc. which shows the continued bad faith of Omnova Solutions Inc.

Request for Production No. 14. All documents that refer or relate to the enforcement or prosecution of Respondent's Mark against third parties, including all documents which refer or relate to each complaint, objection, opposition, administrative or civil action or other controversy, issue or dispute involving Respondent's use of the "PEEL N STICK" Mark.

Ref. PETITIONER'S FIRST SET OF INTERROGATORIES # 6

Request for Production No. 15. All documents which disclose, summarize or memorialize Respondent's annual budget for advertising or promoting the "PEEL N STICK" Mark or products advertised, sold or offered for sale under that mark since Respondent's first use of that mark.

The question is has The Die-Gem Co., Inc. used, continue to use and do they plan to continue to use the mark PEEL N STICK in commerce in the US. In this Proceeding Your question is not relevant.

Request for Production No. 16. All documents which record, reveal, disclose, summarize or memorialize Respondent's annual dollar and unit volume of sales for each product sold, advertised or offered for sale under the "PEEL N STICK" Mark, since Respondent's first use of that mark.

The question is, has The Die-Gem Co., Inc. used, continue to use and do they plan to continue to use the mark PEEL N STICK in commerce in the US. In this Proceeding Your question is not relevant

Request for Production No. 17. All documents that refer or relate to transfers of any goodwill, and all documents relating to quality control standards, quality control meetings or discussions, and the actual exercise of quality control over any licensee.

The question is, has The Die-Gem Co., Inc. used, continue to use and do they plan to continue to use the mark PEEL N STICK in commerce in the US. In this Proceeding Your question is not relevant

Request for Production No. 18. All documents that refer to, relate to, disclose or describe the channels of trade or representative outlets through which Respondent sells, advertises, distributes or offers for sale products bearing the "PEEL N STICK" Mark.

The question is, has The Die-Gem Co., Inc. used, continue to use and do they plan to continue to use the mark PEEL N STICK in commerce in the US. In this Proceeding Your question is not relevant

Request for Production No. 19. All documents relating to or concerning any discontinuation or removal from sale or the market of any of products bearing, advertised or offered for sale under the "PEEL N STICK" Mark.

The question is, has The Die-Gem Co., Inc. used, continue to use and do they plan to continue to use the mark PEEL N STICK in commerce in the US. In this Proceeding Your question is not relevant

Request for Production No. 20. All documents relating to or concerning any cessation, interruption or resumption of the sale, advertising or offer for sale of any product bearing, advertised or offered for sale under the "PEEL N STICK" Mark, and documents sufficient to show the dates of each such cessation, interruption or resumption.

None that we are aware of

Request for Production No. 21. All documents that refer or relate to any past or present trademark or service mark registration or application to register a trademark or service mark in this country or anywhere in the world which includes the terms "PEEL N STICK" that is or was ever granted to, considered, applied for, sought or acquired by or on behalf of Respondent, and all documents relating to whether each registration or application has been maintained or abandoned.

Ref Attachment # 1

Request for Production No. 22. All documents that refer or relate to any past or present trademark or service mark registration or application to

register a trademark or service mark in this country or anywhere in the world for any mark that is used on weather stripping that is or was ever granted to, considered, applied for, sought or acquired by or on behalf of Respondent, and all documents relating to whether each registration or application has been maintained or abandoned.

Ref. Reference to Answer to Cancellation Proceeding May 30, 2005.

Request for Production No. 23. All documents that Respondent intends to rely or place in evidence during the testimony periods of this proceeding or submit to the Trademark Trial and Appeal Board as part of the record in this proceeding.

The Die-Gem Co., Inc. has not decided

Request for Production No. 24. All documents relating to any fact or issue in dispute in this proceeding.

The Die-Gem Co., has been pointing the problems to both OMNOVA Solutions Inc. and their Representative through out this Proceeding.



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System(Tess)

TESS was last updated on Wed May 10 04:12:55 EDT 2006

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Logout Please logout when you are done to release system resources allocated for you.

Start List At: _____ OR Jump to record: _____ **16 Records(s) found (This page: 1 ~ 16)**

Refine Search (PEEL N STICK)[COMB]

Current Search: S1: (PEEL N STICK)[COMB] docs: 16 occ: 148

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78868634		STICK-N-PEEL	TARR	LIVE
2	78650103		PEEL N STICK	TARR	LIVE
3	78409472		PEEL-N-STICK CUPS	TARR	DEAD
4	78387773		SELFSEAL PEEL-N-STICK	TARR	LIVE
5	78387772	3058306	HEATSEAL PEEL-N-STICK	TARR	LIVE
6	78289158		PEEL 'N STICK ARMOR	TARR	LIVE
7	76586610		PEEL N' STICK FX	TARR	LIVE
8	76324469	2805430	ULTRA PEEL N' STICK	TARR	LIVE
9	75587594		PEEL 'N STICK	TARR	DEAD
10	75437350		PEEL 'N' STICK	TARR	DEAD
11	75242365		PEEL 'N' STICK	TARR	DEAD
12	75090617	2141415	PEEL, STICK N' DROP OFFICE IN A BOX	TARR	LIVE
13	74134868	1709574	PEEL-N-STICK	TARR	DEAD
14	73420919		PEEL N STICK	TARR	DEAD
15	73420918	1384270	PEEL N STICK	TARR	LIVE
16	73250639	1229795	PEEL 'N STICK	TARR	LIVE

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United States Patent and Trademark Office
Trademark Trial and Appeal Board
P O Box 1451
Alexandria, Va. 23313-1451

Petitioner Omnova Solutions Inc
 175 Ghent Road
 Fairlawn Oh 44333-3300

92043900

V.

Respondent The Die-Gem Co., Inc.
 One The Die-Gem Way
 Akron, Ohio 44312-1539

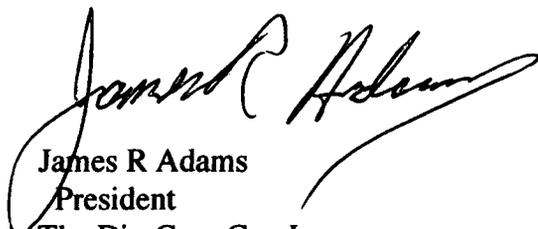
May 11,2006

Sir:

Please find enclosed the answer to discovery proceeding No. 92043900.

PETITIONER'S FIRST SET OF INTERROGATORIES
PETITIONER'S SECOND SET
REQUESTS FOR PRODUCTION 1/18/2005

I James R Adams swear that the answers given in the above Discovery Proceeding No. 92043900 were true to the best of my knowledge.


James R Adams
President
The Die-Gem Co., Inc.

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 23313-1451

November 16, 2005

Petitioner: Omnova Solutions, Inc.
175 Ghent Road
Fairlawn, OH 44333-3300

V.

Respondent: The Die-Gem Co., Inc.
One The Die-Gem Way
Akron, OH 44312-1539

**PROVISIONS FOR PROTECTING
CONFIDENTIALITY OF INFORMATION
REVEALED DURING BOARD PROCEEDING**

Information disclosed by any party or non-party witness during this proceeding may be considered confidential, a trade secret, or commercially sensitive by a party or witness. To preserve the confidentiality of the information so disclosed, the parties have agreed to be bound by the terms of this order, in its standard form as modified by agreement. As used in this order, the term "information" covers both oral testimony and documentary material.

The Parties may subsequently agree to modifications or additions, subject to Board approval.

Agreement of the parties is indicated by the signatures of the parties' attorneys and/or the parties themselves at the conclusion of the order. Imposition of the terms by the Board is indicated by signature of a Board attorney or Administrative Trademark Judge at the conclusion of the order. The terms are binding from the date the parties or their attorneys sign the order.

TERMS OF ORDER

1) Classes of Protected Information.

The Rules of Practice in Trademark Cases provide that all *inter partes* proceeding

files, as well as the involved registration and application files, are open to public inspection. The terms of this order are not to be used to undermine public access to files. When appropriate, however, a party or witness, on its own or through its attorney, may seek to protect the confidentiality of information by employing one of the following designations.

Confidential-Material to be shielded by the Board from public access.

Highly Confidential- Material to be shielded by the Board from public access and subject to agreed restrictions on access or disclosure even as to the parties and/or their attorneys.

Trade Secret/Commercially Sensitive-Material to be shielded by the Board from public access or disclosure, restricted from any access by the parties, and available for review by outside counsel for the parties and, subject to the provisions of paragraph 4 and 5, by independent experts or consultants for the parties.

2) Information Not to Be Designated as Protected.

Information may not be designated as subject to any form of protection if it (a) is, or becomes, public knowledge, as shown by publicly available writings, other than through violation of the terms of this document, (b) is acquired by a non-designating party or non-party witness from a third party lawfully possessing such information and having no obligation to the owner of the information; (c) was lawfully possessed by a non-designating party or non-party witness prior to the opening of discovery in this proceeding, and for which there is written evidence of the lawful possession; (d) is disclosed by a non-designating party or non-party witness legally compelled to disclose the information other than through discovery processes; or (e) is disclosed by a non-designating party with the written approval of the designating party.

3) Access to Protected Information.

The provisions of this order regarding access to protected information are subject to modification by written agreement of the parties or their attorneys, or by motion filed with and approved by the Board.

Judges, attorneys, and other employees of the Board are bound to honor the parties' designations of information as protected but are not required to sign forms acknowledging the terms and existence of this order. Court reporters, stenographers, video technicians or others who may be employed by the parties or their attorneys to

perform services incidental to this proceeding will be bound only to the extent that the parties or their attorneys make it a condition of employment or obtain agreements from such individuals, in accordance with the provisions of paragraph 4.

* **Parties** are defined as including individuals, officers of corporations, partners of partnerships, and management employees of any type of business organization.

* **Attorneys** for parties are defined as including **in-house counsel** and **outside counsel**, including support staff operating under counsel's direction, such as paralegals or legal assistants, secretaries, and any other employees or independent contractors operating under counsel's instruction.

* **Independent experts or consultants** include individuals retained by a party for purposes related to prosecution or defense of the proceeding but who are not otherwise employees of either the party or its attorneys.

* **Non-party witnesses** include any individuals to be deposed during discovery or trial, whether willingly or under subpoena issued by a court of competent jurisdiction over the witness.

Parties and their **attorneys** shall have access to information designated as **confidential or highly confidential**, subject to any agreed exceptions.

Outside counsel, but not in-house counsel, shall have access to information designated as **trade secret/commercially sensitive**.

Independent experts or consultants, non-party witnesses, and any other individual not otherwise specifically covered by the terms of this order may be afforded access to **confidential or highly confidential** information in accordance with the terms that follow in paragraph 4.

Further, **independent experts or consultants** may have access to **trade secret / commercially sensitive** information if such access is agreed to by the parties or ordered by the Board, in accordance with the terms that follow in paragraph 4 and 5.

4) Disclosure to Any Individual.

Prior to disclosure of protected information by any party or its attorney to any

individual not already provided access to such information by the terms of this order, the individual shall be informed of the existence of this order and provided with a copy to read. The individual will then be required to certify in writing that the order has been read and understood and that the terms shall be binding on the individual. No individual shall receive any protected information until the party or attorney proposing to disclose the information has received the signed certification from the individual. A form for such certification is attached to this order. The party or attorney receiving the completed form shall retain the original.

5) Disclosure to Independent Experts or Consultants.

In addition to meeting the requirements of paragraph 4, any party or attorney proposing to share disclosed information with an independent expert or consultant must also notify the party which designated the information as protected. Notification must be personally served or forwarded by any trackable mail or courier service, and shall provide notice of the name, address, occupation and professional background of the expert or independent consultant.

The party or its attorney receiving the notice shall have ten (10) business days to object to disclosure to the expert or independent consultant. If objection is made, then the parties must negotiate the issue before raising the issue before the Board. If the parties are unable to settle their dispute, then it shall be the obligation of the party or attorney proposing disclosure to bring the matter before the Board with an explanation of the need for disclosure and a report on the efforts the parties have made to settle their dispute. The party objecting to disclosure will be expected to respond with its arguments against disclosure or its objections will be deemed waived.

6) Responses to Written Discovery.

Responses to interrogatories under Federal Rule 33 and requests for admissions under Federal Rule 36, and which the responding party reasonably believes to contain protected information, shall be prominently stamped or marked with the appropriate designation from paragraph 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of its error, by informing all adverse parties, in writing, of the error. The parties should inform the Board only if necessary because of the filing of protected information not in accordance with the provisions of paragraph 12.

7) Production of Documents.

If a party responds to requests for production under Federal Rule 34 by making copies and forwarding the copies to the inquiring party, then the copies shall be prominently stamped or marked, as necessary, with the appropriate designation from paragraph 1. If the responding party makes documents available for inspection and copying by the inquiring party, all documents shall be considered protected during the course of inspection. After the inquiring party informs the responding party what documents are to be copied, the responding party will be responsible for prominently stamping or marking the copies with the appropriate designation from paragraph 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of its error, by informing all adverse parties, in writing, of the error. The parties should inform the Board only if necessary because of the filing of protected information not in accordance with the provisions of paragraph 12.

8) Depositions.

Protected documents produced during a discovery deposition, or offered into evidence during a testimony deposition shall be orally noted as such by the producing or offering party at the outset of any discussion of the document or information contained in the document. In addition, the documents must be prominently stamped or marked with the appropriate designation.

During discussion of any non-documentary protected information, the interested party shall make oral note of the protected nature of the information.

The transcript of any deposition and all exhibits or attachments shall be considered protected for 30 days following the date of service of the transcript by the party that took the deposition. During that 30-day period, either party may designate the portions of the transcript, and any specific exhibits or attachments that are to be treated as protected, by electing the appropriate designation from paragraph 1. Appropriate stampings or markings should be made during this time. If no such designations are made, then the entire transcript and exhibits will be considered unprotected, except for exhibits that previously were designated and stamped as protected.

9) Filing Notices of Reliance.

Whether or not a party or its attorney files a notice of reliance during the party's testimony period, the party or attorney is bound to honor designations made by the adverse party or attorney, or non-party witness, who disclosed the information, so as to maintain the protected status of the information.

10) Briefs.

When filing briefs, memoranda, or declarations in support of a motion, or briefs at final hearing, the portions of these filings that discuss protected information, whether information of the filing party, or any adverse party, or any non-party witness, should be redacted. The rule of reasonableness for redaction is discussed in paragraph 12 of this order.

11) Handling of Protected Information.

Disclosure of information protected under the terms of this order is intended only to facilitate the prosecution or defense of this case. The recipient of any protected information disclosed in accordance with the terms of this order is obligated to maintain the confidentiality of the information and shall exercise reasonable care in handling, storing, using or disseminating the information.

12) Redaction; Filing Material With the Board.

When a party or attorney must file protected information with the Board, or a brief that discusses such information, the protected information or portion of the brief discussing the same should be redacted from the remainder. A rule of reasonableness should dictate how redaction is effected.

Redaction can entail merely covering a portion of a page of material when it is copied in anticipation of filing but can also entail the more extreme measure of simply filing the entire page under seal as one that contains primarily confidential material. If only a sentence or short paragraph of a page of material is confidential, covering that material when the page is copied would be appropriate. In contrast, if most of the material on the page is confidential, then filing the entire page under seal would be more reasonable, even if some small quantity of non-confidential material is then withheld from the public record. Likewise, when a multi-page document is in issue, reasonableness would dictate that redaction of the portions or pages containing confidential material be affected when only some small number of pages contain

such material. In contrast, if almost every page of the document contains some

confidential material, it may be more reasonable to simply submit the entire document under seal. Occasions when a whole document or brief must be submitted under seal should be very rare.

Protected information, and pleadings, briefs or memoranda that reproduce, discuss or paraphrase such information, shall be filed with the Board under seal. The envelopes or containers shall be prominently stamped or marked with a legend in substantially the following form:

CONFIDENTIAL

This envelope contains documents or information that are subject to a protective order or agreement. The confidentiality of the material is to be maintained and the envelope is not to be opened, or the contents revealed to any individual, except by order of the Board.

13) Acceptance of Information; Inadvertent Disclosure.

Acceptance by a party or its attorney of information disclosed under designation as protected shall not constitute an admission that the information is, in fact, entitled to protection. Inadvertent disclosure of information which the disclosing party intended to designate as protected shall not constitute waiver of any right to claim the information as protected upon discovery of the error.

14) Challenges to Designations of Information as Protected.

If the parties or their attorneys disagree as to whether certain information should be protected, they are obligated to negotiate in good faith regarding the designation by the disclosing party. If the parties are unable to resolve their differences, the party challenging the designation may make a motion before the Board seeking a determination of the status of the information.

The party designating information as protected will, when its designation is timely challenged, bear the ultimate burden of proving that the information should be protected.

15) Board's Jurisdiction; Handling of Materials After Termination.

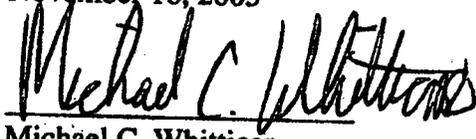
The Board's jurisdiction over the parties and their attorneys ends when this proceeding is terminated. A proceeding is terminated only after a final order is entered and either all appellate proceedings have been resolved or the time for filing an appeal has passed without filing of any appeal.

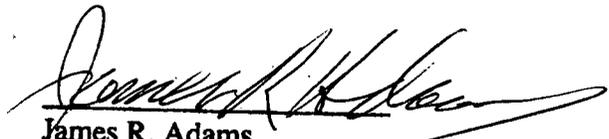
The parties may agree that archival copies of evidence and briefs may be retained, subject to compliance with agreed safeguards. Otherwise, within 30 days after the final termination of this proceeding, the parties and their attorneys shall return to each disclosing party the protected information disclosed during the proceeding, and shall include any briefs, memoranda, summaries, and the like, which discuss or in any way refer to such information. In the alternative, the disclosing party or its attorney may make a written request that such materials be destroyed rather than returned.

16) Other Rights of the Parties and Attorneys.

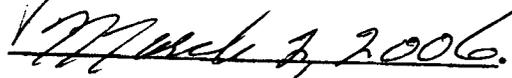
This order shall not preclude the parties or their attorneys from making any applicable claims of privilege during discovery or at trial. Nor shall the order preclude the filing of any motion with the Board for relief from a particular provision of this order or for additional protections not provided by this order.

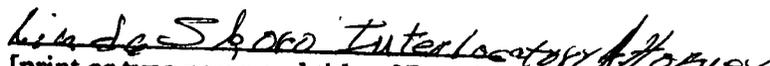
**By Agreement of the Following, effective
November 16, 2005**


Michael C. Whitticar
Attorney for Plaintiff
Jagtiani + Guttag


James R. Adams
President
The Die-Gem Co., Inc.

By Order of the Board, effective


March 7, 2006.


[print or type name and title of Board
Attorney or judge imposing order]