

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

am/BUTLER

Mailed: May 19, 2008

Cancellation No. 92047661

Live Ventures Inc.

v.

Saroj International, Inc.

**M. Catherine Faint,
Interlocutory Attorney:**

Before the Board is petitioner's motion for discovery sanctions, filed April 9, 2008.¹ Petitioner alleges that respondent has failed to respond to the Board's February 21, 2008 order requiring a signature to the interrogatory responses, compelling supplemental discovery responses, and requiring a signature to supplemental admission responses. Further petitioner alleges that respondent has shown a willful pattern of evasion by refusing to cooperate in the discovery process. Respondent has not filed a response to petitioner's motion,² and thus respondent has not provided any reason for not complying with the Board's order.

¹ Petitioner's motions for protective order and to extend time are noted, but are denied as moot at this time.

² The Board notes in passing that respondent did not file a response to petitioner's April 9, 2008 motion to compel.

If a party fails to comply with an order of the Board relating to discovery, including an order compelling discovery, the Board may order appropriate sanctions as noted in Trademark Rule 2.120(g) and Federal Rule of Civil Procedure 37(b)(2) including entry of default judgment. See Trademark Rule 2.120(g), 37 CFR § 2.120(g), and Fed. R. Civ. P. 37(b)(2). While default judgment is a harsh remedy, it is justified where a disobedient party has not provided any reason for not responding to an order of the Board. See *Unicut Corp. v. Unicut, Inc.*, 222 USPQ 341, 344 (TTAB 1984) (judgment entered where respondent showed willful evasion); *Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 USPQ 99, 100 (TTAB 1976) (judgment entered where applicant provided no reason for not complying with Board order compelling discovery).

In view of respondent's participation early in this proceeding (by filing an answer and serving discovery responses, although the adequacy of such responses was disputed), it appears to the Board that respondent has lost interest in this case.

Accordingly, respondent is allowed until **THIRTY DAYS** from the mailing date of this order to show cause why the Board should not treat respondent's apparent loss of interest in this case as a concession of the case. If no

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word is heard from respondent, judgment will be entered against respondent, the petition to cancel will be granted, and Registration Nos. 3143997, 3147241 and 3158549 will be cancelled in due course.³

Proceedings are otherwise suspended.

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³ In the event respondent responds such that the show cause order is discharged, petitioner's motion for sanctions will be considered on its merits. In all likelihood, appropriate sanctions will be imposed for respondent's disregard of the Board's discovery order.