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

Mailed: December 13, 2002

Opposition No. 121,151

AMERICAN HONDA MOTOR CO., INC.

v.

TBC CORPORATION

Cindy B. Greenbaum, Attorney:

This case now comes up on applicant's request for reconsideration of that portion of the September 4, 2002 Board order which purportedly reopened discovery, and opposer's request for a telephone conference. The Board has exercised its discretion and has considered applicant's reply brief. See Trademark Rule 2.127(a).

As background, discovery, as extended, closed on November 16, 2001. On January 14, 2002, the day before opposer's testimony period was scheduled to open, applicant filed a motion to compel. On March 11, 2002, the Board granted as uncontested applicant's motion to compel, and, in its discretion, reopened discovery.[1] Pursuant to the March 11, 2002 Board order, discovery was scheduled to close on June 9, 2002. On April 18, 2002, applicant filed a motion

[1] The Board notes that applicant had not requested a reopening of discovery in the motion to compel.

for sanctions in the form of judgment. The Board issued a suspension order on June 24, 2002. On September 4, 2002, the Board denied applicant's motion for judgment, and reset discovery to close on December 15, 2002.

Motions for reconsideration, as set forth in Trademark Rule 2.127(b), provide an opportunity for a party to point out any error the Board may have made in considering the matter initially. A motion for reconsideration is limited to the movant attempting to establish that, based on the information before the Board when the assertedly objectionable decision issued, the Board erred.

Although applicant couches its request as one for reconsideration of the purported reopening of discovery in the September 4, 2002 Board order, applicant actually seeks reconsideration of what it believes to be a Board error in the March 11, 2002 order.[2] To the extent applicant requests reconsideration of the March 11, 2002 order, the request is denied as untimely. See Trademark Rule 2.127(b).

Further, upon careful consideration of applicant's arguments on reconsideration, the Board is not persuaded that there was any error in the September 4, 2002 decision. When applicant filed the motion for sanctions, approximately two months remained in the discovery period. Consequently,

[2] Applicant acknowledges in its reply brief that when it filed the motion for reconsideration, it did not realize that the March 11, 2002 Board order had reopened discovery.

when the Board denied applicant's motion for sanctions, the Board reset the discovery period for approximately three months to account for the remaining time for discovery period, plus additional time for potential mailing delays. In view thereof, applicant's motion for reconsideration is denied.

In addition, to the extent applicant seeks relief under Fed. R. Civ. P. 60(a) regarding the purported clerical mistake in the March 11, 2002 order, this request also is denied. The reopening of discovery in the March 11, 2002 Board order was a discretionary determination rather than a clerical error of they type that Rule 60(a) contemplates.

Finally, opposer's request for a telephone conference is denied as unnecessary as opposer has not filed a motion to compel any discovery from applicant, and the Board declines to construe opposer's response to applicant's request for reconsideration as a separate motion to compel.[3]

Dates remain as set in the September 4, 2002 Board order.

[3] The parties are advised that the Board rarely conducts telephone conferences to resolve motions to compel.