

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 4, 2002

Opposition No. 91150883

INVACARE CORPORATION

v.

BANYAN LICENSING, L.L.C.

Frances S. Wolfson, Interlocutory Attorney:

Opposer's motion (filed August 1, 2002) to compel applicant to respond to opposer's discovery requests is hereby granted as conceded. See Trademark Rules 2.120(g) and 2.127(a).

Accordingly, applicant is allowed twenty days from the mailing date of this order to respond, without objection,¹ to opposer's first set of interrogatories and first set of requests for production of documents, failing which the Board may order appropriate sanctions as defined in Trademark Rule 2.120(g)(1) and Fed. R. Civ. P. 37(b)(2), including entry of judgment. See *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*,

¹ A party which fails to respond to a request for discovery during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits. See TBMP §403.03 and authorities cited in that section.

Opposition No. Error! Reference source not found.

55 USPQ2d 1848 (TTAB 2000); *Unicut Corp. v. Unicut, Inc.*, 222
USPQ 341 (TTAB 1984); and TBMP Section 527.01.

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