

ESTTA Tracking number: **ESTTA81329**

Filing date: **05/18/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91169502
Party	Plaintiff LEO STOLLER CENTRAL MFG. CO
Correspondence Address	LEO STOLLER Central Mfg co. 7115 W. North Avenue #272 Oak Park, IL 60302 UNITED STATES ldms4@hotmail.com
Submission	Other Motions/Papers
Filer's Name	Leo Stoller
Filer's e-mail	ldms4@hotmail.com
Signature	/Leo Stoller/
Date	05/18/2006
Attachments	Loveland_mot3.pdf ( 7 pages )(76747 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

---

LEO STOLLER,  
CENTRAL MFG. CO.,

Opposer,

vs.

Opposition No: 91169502

LOVELAND PRODUCTS, INC.,

Applicant.

---

**MOTION**

NOW COMES the Opposer and requests that the Board order the Applicant to produce the three deponents that the Applicant agreed to produce for deposition, namely, Jason Chesson, Kari Wolfe, and Mike Steffek, on the same date or successive dates.

The Applicant has agreed to produce its three witnesses, however, the Applicant is refusing to produce all three witnesses on the same date or on successive dates. The Applicant's witnesses are located in Colorado. Leo Stoller, the representative of the Opposer, is located in Chicago, Illinois. The Applicant is intentionally attempting to force Leo Stoller to incur the costs of two separate round-trip airfares by scheduling the deponents on separate dates. See attached correspondence as between the parties.

The Opposer has made a good faith effort to resolve this dispute by calling counsel for the Applicant several times, Elizabeth Magnuson and Jared B. Briant. The Opposer also attempted to resolve this dispute by written correspondence which has been

acknowledged as received by Elizabeth Magnuson in her attached May 16, 2006 letter, where Ms. Magnuson states “we received your May 15, 2006, facsimile regarding our proposed deposition dates for Jason Chesson, Kari Wolfe, and Mike Steffeck. Your accusation that the proposed deposition dates were an attempt to ‘obstruct the opposer’s discovery process’ is both unfounded and unjustified.” The Opposer was merely attempting to have the three deponents available for deponents for deposition on the same or successive dates, in view of the fact that the Opposer has to travel from Chicago to Colorado to take the said depositions. The Applicant insists that the three deponents cannot be produced on the same date or successive dates. It is clear that the Applicant is attempting to obstruct the Opposer by forcing the Opposer to make two separate trips to Colorado.

In 25 years, Leo Stoller has never been in a case where the defendants did not produce their witnesses on the same and/or successive dates in any Board proceeding. The parties have made a good faith effort to resolve this dispute. The Board has the authority to order the Applicant to produce its three witnesses on the same or successive dates for depositions. The Opposer is requesting that the Board exercise its authority and order the Applicant to produce its three witnesses on the same or successive dates for depositions.

In addition, the Opposer has filed a motion to compel. The Applicant has refused to respond to Opposer’s discovery requests, including Opposer’s interrogatories, production of documents, and as such, the Opposer cannot even take the depositions of Applicant’s witnesses, Jason Chesson, Kari Wolfe, and Mike Steffeck, until the Opposer has complete and full responses to Opposer’s outstanding written discovery requests.

Furthermore, the Board has entered its standard protective order and the Applicant has not supplemented its production of document responses, nor has the Applicant produced or made available for production any documents pursuant to the Board's protective order. Consequently, the Opposer is requesting that the Board order the Applicant to produce the three deponents, Jason Chesson, Kari Wolfe, and Mike Steffek, after the Board decides Opposer's motion to compel. The Opposer needs to have all of its written discovery responses in hand prior to the taking of any depositions.

WHEREFORE, the Opposer prays that the Board exercise its authority and order the Applicant to produce its witnesses, Jason Chesson, Kari Wolfe, and Mike Steffek, for deposition on the same dates and/or successive dates for their depositions, after the Board decides Opposer's motion to compel.

RESPECTFULLY SUBMITTED,

---

/Leo Stoller/  
Leo Stoller, President  
CENTRAL MFG. CO., Opposer  
7115 W. North Avenue #272  
Oak Park, Illinois 60302  
(773) 589-0340

Date: May 18, 2006

### **Certificate of On-Line Filing**

I hereby certify that on May 18, 2006 this paper is being filed online in this case with the Trademark Trial and Appeal Board.

---

/Leo Stoller/

### **Certificate of Service**

I hereby certify that on May 18, 2006 a copy of the foregoing was sent by First Class mail with the U.S. Postal Service in an envelope addressed to:

Elizabeth McGoogan Magnuson  
*Faegre & Benson LLP.*  
1900 Fifteenth Street  
Boulder, Colorado 80302

---

Leo Stoller  
Date: May 18, 2006



UNITED STATES | ENGLAND | GERMANY | CHINA

BETH MAGNUSON  
BAMagnuson@faegre.com  
303.447.7729

May 2, 2006

**VIA FACSIMILE**

Leo Stoller  
Central Mfg. Co.  
P.O. Box 35189  
Chicago IL 60707-0189

Re: *Stoller v. Loveland Products*, Trademark Opposition No. 91169502  
Deposition Scheduling

Dear Mr. Stoller:

Jason Chesson and Kari Wolfe are available for their depositions on June 7, 8, 13, 14, or 15. The depositions will need to take place on different days in order to accommodate their work schedules. With respect to Jason's deposition, because we are now in the primary growing season, Jason's job sometimes requires him to travel out into the field on very short notice. Once we set a deposition date for him, we will do our best to make sure that it takes place as scheduled. But we wanted to let you know in advance that extenuating business circumstances may require us to reschedule his deposition on short notice.

Mike Steffek is available for his deposition on June 27, 28, and 29.

The depositions should take place in our Boulder, Colorado office.

Please let us know which of these dates works with your schedule. We would like to firm up these dates and soon as possible.

Best regards,

FAEGRE & BENSON LLP

Beth Magnuson

BLDR1:50245752.01



UNITED STATES | ENGLAND | GERMANY | CHINA

BETH MAGNUSON  
BMagnuson@faegre.com  
303.447.7700

May 15, 2006

**VIA FACSIMILE**

Leo Stoller  
Central Mfg. Co.  
7115 W. North Avenue #272  
Oak Park, IL 60302

Re: *Stoller v. Loveland Products*, Trademark Opposition No. 91169502  
Deposition Scheduling

Dear Mr. Stoller:

We have not received a response to our May 2, 2006 letter providing available deposition dates for Jason Chesson, Kari Wolfe, and Mike Steffek. A copy of our letter is attached. These individuals have been holding the proffered dates open now for almost two weeks. Please let us know which of the proffered dates you would like to choose for their respective depositions by Thursday, May 18, 2006.

Best regards,

FAEGRE & BENSON LLP

A handwritten signature in cursive script that reads "Beth Magnuson".

Beth Magnuson

Enclosure: May 2, 2006 letter to L. Stoller.

RE:DR1;50246415.02



UNITED STATES | ENGLAND | GERMANY | CHINA

BETH MAGNUSON  
BMagnuson@faegre.com  
303.447.7729

May 16, 2006

**VIA FACSIMILE**Leo Stoller,  
Central Mfg. Co.  
7115 W. North Avenue #272  
Oak Park, IL 60302Re: *Stoller v. Loveland Products*, Trademark Opposition No. 91169502  
Deposition Scheduling

Dear Mr. Stoller:

We received your May 15, 2006 facsimile regarding our proposed deposition dates for Jason Chesson, Kari Wolfe, and Mike Steffock. Your accusation that the proposed deposition dates were an attempt to "obstruct the opposer's discovery process" is both unfounded and unjustified.

As stated in our May 2, 2006 letter, Mr. Steffock's schedule did not allow sufficient time for his deposition until late June. Ms. Wolfe and Mr. Chesson, however, were available earlier in the month. Because we understood that you wished to take the depositions at the earliest convenient time, we offered the earliest dates that each of the individuals was available. Since you have now requested to take the three depositions sequentially, we are contacting our client to try and find a three-day period where all of the deponents would be available. Coordinating the schedules of three busy individuals, yourself, and counsel, however, may prove difficult. We will contact you when we hear from our client regarding alternative deposition dates.

In the meantime, our prior offer of deposition dates still stands. As clearly stated in our letter, the availability dates for Ms. Wolfe and Mr. Chesson do overlap, so you would only need to make one trip to depose the two of them. Indeed, after deposing Ms. Wolfe and Mr. Chesson, you may find that deposing Mr. Steffock is unnecessary.

Best regards,

FAEGRE &amp; BENSON LLP

A handwritten signature in cursive script that reads "Beth Magnuson".  
Beth Magnuson

BLD1150216519.01