

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

Mailed: April 23, 2008

Opposition No. 91176439

Ashley Furniture Industries,  
Inc.

v.

Robinson & Robinson, Inc.

Cheryl Goodman, Interlocutory Attorney:

This case now comes up on applicant's motion to compel discovery, filed March 13, 2008. Applicant advises that it has received no discovery responses from opposer, as confirmed by opposer in writing, and that opposer has failed to respond to "applicant's request for a commitment as to when opposer will provide full and complete responses."

Opposer has filed no response to the motion to compel.

In view thereof, applicant's motion to compel is granted as conceded. See Trademark Rule 2.127(a). Moreover, opposer, by failing to timely respond to the discovery requests, has forfeited its right to object to the requests on their merits. See *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448 (TTAB 1979). Thus, opposer is allowed until THIRTY DAYS from the mailing date of this order to respond to applicant's discovery requests without objection.

Proceedings are resumed.

Trial dates are reset as follows:

|   |                           |
|---|---------------------------|
| DISCOVERY PERIOD TO CLOSE:  | <b>CLOSED</b>             |
| 30-day testimony period for party in position of plaintiff to close:          | <b>July 22, 2008</b>      |
| 30-day testimony period for party in position of defendant to close:          | <b>September 20, 2008</b> |
| 15-day rebuttal testimony period for party in position of plaintiff to close: | <b>November 4, 2008</b>   |

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule

and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>