

ESTTA Tracking number: **ESTTA975536**

Filing date: **05/22/2019**

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

Proceeding	91240198
Party	Defendant Fabryka Obrabiarek RAFAMET SpÅ³ka Akcyjna
Correspondence Address	SZYMON M GURDA CHERSKOV FLAYNIK & GURDA LLC 123 W MADISON ST, SUITE 400 CHICAGO, IL 60602 UNITED STATES mail@cherskov.com, sgurda@cherskov.com 312-621-1330
Submission	Motion to Dismiss 2.132
Filer's Name	Szymon M. gurda
Filer's email	mail@cherskov.com
Signature	/Szymon M. Gurda/
Date	05/22/2019
Attachments	Motion to Dismiss.pdf(183748 bytes)

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

Poreba Machine Tool Company LLC)	Serial No.	: 79/196,339
)	Date of Filing	: July 27, 2016
Petitioner,)		
)		
)	Opposition No.	: 91240198
v.)		
)		
)	Mark	:POREBA 1798
)		and design
Fabryka Obrabiarek RAFAMET S.A.)		
)		
Applicant Respondent.)		

**MOTION FOR INVOLUNTARY DISMISSAL FOR FAILURE TO TAKE TESTIMONY
UNDER 37 CFR § 2.132(a)**

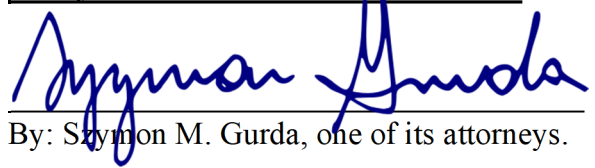
Applicant, Fabryka Obrabiarek RAFAMET S.A. by and through its attorneys, hereby moves, pursuant to Trademark Rule § 2.132(a), for dismissal of the subject opposition proceeding because Opposer, Poreba Machine Tool Company LLC, has failed to prosecute same.

Per the June 14, 2018 Order, the thirty-day testimony period for Opposer expired on May 10, 2019. Applicant is not aware of any effort by Opposer to change trial dates or take any testimony, nor has Applicant been served by Opposer with any notices for taking testimony or motions for extending trial dates. As such, Applicant respectfully believes Opposer is no longer able to obtain testimony and submit the evidence necessary to prove its case.

Accordingly, Applicant respectfully requests dismissal of the subject opposition proceeding and that Applicant's application 79/196,339 proceed to registration. Given Opposer's failure to obtain evidence and this pending motion, Applicant will not take evidence

during its 30-day trial period, which was scheduled to begin on June 9, 2019. Applicant does not waive its right to offer evidence in the case in the event that this motion is denied.

Fabryka Obrabiarek RAFAMET S.A



By: Symon M. Gurda, one of its attorneys.

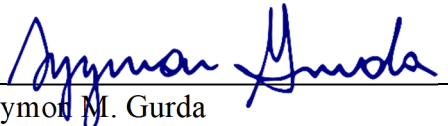
Date: May 22, 2019

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION FOR INVOLUNTARY DISMISSAL FOR FAILURE TO TAKE TESTIMONY UNDER 37 CFR § 2.132(a) has been served on attorney for Petitioner Poreba Machine Tool Company LLC by forwarding said copy to:

MR. NICK MARSICO
HUCK BOUMA PC
1755 S NAPERVILLE ROAD #200
WHEATON, IL 60189
UNITED STATES

via e-mail to nmarsico@huckbouma.com on May 22, 2019. A paper copy of the filing was also sent.



Szymon M. Gurda
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Reg. No. 58451