

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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June 4, 2019

Opposition No. 91247343

Graco Minnesota Inc.

v.

Zhejiang Rongpeng Air Tools Co., Ltd.

J. Krisp, Interlocutory Attorney:

Pursuant to Fed. R. Civ. P. 26(f) and Trademark Rules 2.120(a)(1) and (2), and as explained in the April 2, 2019 order instituting this proceeding, the parties are required to hold a timely discovery and settlement conference on or before June 11, 2019. 2 TTABVUE 3.

On May 31, 2019, Opposer filed a timely request for the Board attorney's participation in the conference, which includes notice of difficulties in receiving a response from Applicant regarding scheduling the conference. On June 4, 2019, counsel for Opposer contacted the Board, informing the Board of further recent difficulties, specifically noting that he sent an email on May 28, 2019, and a subsequent email, and that Applicant has not responded.

All parties to a proceeding have an affirmative duty to cooperate and conduct the discovery conference in a timely fashion. TBMP § 408.01(a) (June 2018), and

authorities cited therein. The Board looks with extreme disfavor on any party which fails to schedule and participate in the conference, and which in so doing delays the proceeding.

To address this matter, Applicant is allowed until **ten (10) days from the date of this order to 1) contact counsel for Opposer and determine a mutually convenient date and time on which to hold the conference, and 2) file herein notice of the telephone number for Applicant's counsel or representative who will participate in the conference.**¹

Proceedings are otherwise **suspended**, and will only be resumed by Board order.

If Applicant fails to contact Opposer's counsel as directed herein or is otherwise found to have been uncooperative in scheduling or holding the conference, the Board may issue an order requiring Applicant to show cause why judgment should not be entered against it for failure to participate in scheduling or holding the conference. A party who the Board finds to have failed to participate in scheduling or holding the conference may be subject to sanctions pursuant to Trademark Rule 2.120(h). TBMP § 408.01(a).

¹ Applicant is directed to TBMP §§ 106.02, 114-114.06 for important information regarding individuals who may appear on behalf of a party in a Board proceeding.