

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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KRAFT FOODS HOLDINGS, INC.,

Plaintiff,

ORDER

v.

THE PROCTOR & GAMBLE COMPANY,

07-cv-613-bbc

Defendant

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On April 30, 2008, this court held yet another recorded telephonic hearing on the parties' three most recent discovery motions. *See* Dkts. 97, 101 and 107. Both sides were represented by counsel. After discussing the motions with both sides, I granted 97 and 101, but denied 107 without prejudice.

The record of the hearing speaks for itself. By way of brief recapitulation, the court is allowing P&G to depose Samuel Belcher so that it may attempt to perfect its impeachment of Kraft insofar as Belcher made representations to the PTO as Kraft's agent. P&G may not use this deposition to create additional impeachment information, although it may ask Belcher to explain his statements to the PTO so that there is no dispute later as to what he meant to say on behalf of Kraft.

I granted Kraft's first motion to compel (dkt. 101). The parties are to parley, prioritize and attempt to agree on sequential production of the most important information.

I denied Kraft's second motion to compel (dkt. 107) without prejudice because it concerns damages discovery, which is not currently a priority. Nonetheless, once the summary judgment submission crunch has passed, the parties again must parley, prioritize and sequence disclosures to the extent they can agree on what discovery should change hands.

Finally, counsel must redouble their efforts to resolve discovery disputes without court intervention. Because the parties have just advised the court that promising settlement negotiations are underway, perhaps we will not need any more “coffee hours” on Wednesday afternoon. But if we do, there shall be cost shifting under Rule 37(a) and possible Rule 37(b) sanctions as well.

Each side will bear its own costs on this last set of motions.

Entered this 1<sup>st</sup> day of May, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge