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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

GLAS-WELD SYSTEMS, INC., an Oregon
corporation,

Plaintiff,

v.

MICHAEL P. BOYLE, dba SURFACE
DYNAMIX; and CHRISTOPHER M. BOYLE

Defendants.

Case No. 6:12-cv-02273-AA

**MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANTS MICHAEL
BOYLE AND CHRISTOPHER BOYLE**

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LR7-1(a) CERTIFICATION

Counsel for Plaintiff, Glas-Weld Systems, Inc. (“Glas-Weld”) certify that they have conferred with counsel for Defendant Michael P. Boyle, dba Surface Dynamix, and with Defendant Christopher Boyle (collectively, “the Boyles”) on the issues which are the subject of this motion. The parties have been unable to reach agreement.

I. MOTION

Pursuant to Rule 37(b)(2) Glas-Weld respectfully moves the Court for entry of a default judgment against Defendants Michael Boyle and Christopher Boyle, (collectively “the Boyles”), and submits the memorandum below in support of same.

II. MEMORANDUM OF LAW

A. INTRODUCTION

Glas-Weld requests that the Court enter a default judgment against Defendants Michael Boyle and Christopher Boyle, because of their complete, consistent, and unapologetic disregard of this Court’s clear orders compelling them to comply with their discovery obligations. Specifically, Glas-Weld asks that the Court impose sanctions under Rule 37(b)(2) and grant Glas-Weld a default judgment against the Boyles for the Boyles’ collective refusal to comply with the Court’s June 2, 2014 Order compelling discovery responses, the Court’s September 6, 2013 Order also compelling discovery responses, and their other discovery violations.

Since the inception of this case Michael Boyle has refused to cooperate with Glas-Weld’s attempts to obtain information, documents, and things related to the subject matter of this litigation. He’s disobeyed this Court’s orders, and he rebuffed the Court’s attempt to provide him assistance in the form of a *pro bono* attorney. Michael Boyle’s son and co-defendant, Christopher Boyle has followed in his father’s footsteps. Nearly all of the deficiencies set forth in Glas-Weld’s original Motion to Compel, which was filed a year ago, remain unaddressed by Michael Boyle despite two orders from this

Court compelling full and complete responses. Additionally, deficiencies raised with Michael Boyle's attorney more than seven months ago also remain unaddressed, as do deficiencies and outright discovery violations raised with Christopher Boyle more than four months ago.

Glas-Weld's Reply in Support of its Motion for Summary Judgment of Infringement noted that the Boyles' discovery violations alone were sufficient grounds for the Court to grant summary judgment. However, the Court gave the Boyles yet another opportunity to correct these deficiencies, ordering them to provide **complete** responses to discovery requests by July 2, 2014. But the Boyles once again largely ignored this Court's clear order. Specifically, Michael Boyle refused to provide any additional information or documentation, and instead served a response to Interrogatory No. 8 that did nothing more than blame the *pro bono* attorney who volunteered to assist him for his inability to provide a full and complete response. He flatly refused to address any of the other deficiencies and discovery violations previously brought to his attention.

Similarly, although Christopher Boyle served an incomplete, partial response to Interrogatory No. 7, he did not provide any documentation, revise his bad faith responses to Glas-Weld's requests for admission, or otherwise cure any of the numerous discovery deficiencies and violations previously brought to his attention.

On July 3, 2014, Glas-Weld informed the Boyles that their responses were deficient and violated the June 2, 2014 Order compelling complete responses. Three weeks later, Defendants continue to refuse to supplement their responses. Accordingly, Glas-Weld respectfully requests that the Court grant a default judgment against Defendants because of their continuing and willful disregard for their discovery obligations.

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B. BACKGROUND AND FACTS

1. Michael Boyle's Refusal to Comply with the Federal Rules of Civil Procedure

Michael Boyle's refusal to provide information and documents pursuant to Glas-Weld's discovery requests - served well over a year ago on May 2 & 3, 2013, and June 26, 2013 - are documented in Glas-Weld's Motion to Compel and associated memoranda (Doc. Nos. 40, 41, 41-1-41-8 & 47), which are incorporated herein by reference in their entirety. On September 6, 2013, the Court granted Glas-Weld's motion to compel and ordered Michael Boyle to respond to all pending discovery within 45 days. Doc. No. 67.

As discussed in Glas-Weld's Motion for Partial Summary Judgment of Infringement and associated memoranda and exhibits (Doc. Nos. 96, 97, 97-1 – 97-8, 115, 115-1 – 115-5) (collectively, the "Glas-Weld Summary Judgment Briefs"), which are incorporated herein by reference in their entirety, the Court's appointment of *pro bono* counsel for Michael Boyle did little to improve his cooperation with Glas-Weld and his compliance with discovery obligations. Before he terminated his volunteer attorney, Michael Boyle served document production and responses to Glas-Weld's discovery, including Glas-Weld's interrogatories on October 21, 2013. Doc. No. 97-5. However, Michael Boyle's October 21, 2013 responses left several interrogatories unanswered and provided deficient responses to others. *Id.*; *see also* Doc. No. 96, at p. 9-10. Specifically, Michael Boyle has not provided substantive answers to Glas-Weld's Interrogatory Nos. 8 – 14:

- Michael Boyle's response to Interrogatory No. 8,¹ which asks for a chart detailing the basis of his non-infringement defense stated only that "No claim charts have been produced. Defendant will supplement this

¹ On July 23, 2014 Michael Boyle notified Glas-Weld by email that he was adopting as his response to Interrogatory No. 8, Christopher Boyle's response to Glas-Weld's Interrogatory No. 7 served on July 2, 2014. That response is deficient, but more importantly, Michael Boyle continues to refuse to cure the remainder of his discovery deficiencies.

response if unprivileged responsive documents become available.” *Id.* Michael Boyle’s July 2, 2014 response is similarly deficient and addressed below.

- Michael Boyle’s response to Interrogatory No. 9, which asks for a chart detailing the basis of his invalidity defense, stated only that “No responsive documents or items exist presently. Defendant will supplement this response as appropriate.” *Id.* No supplementation has been provided.
- Michael Boyle’s Responses to Interrogatory Nos. 10, 11, 12, 13 and 14, which ask for the factual basis supporting his other affirmative defenses, states only that “Defendant presently lacks information to respond to this interrogatory. This response will be supplemented as appropriate.” No supplementation has been provided.

Michael Boyle’s October 21, 2013 responses to other interrogatories, such as Interrogatory Nos. 1, 2, 6, 16, 17 and 18, are deficient because they answer by generally refer to documents, but failing to identify such documents as required by the Federal Rules:

- Michael Boyle’s Response to Interrogatory Nos. 1, 2 and 18, which ask for information relating to the identification, manufacture and sale of the Accused Products, refer to “documents being made available for inspection and copying in response to Plaintiff’s Requests 1 and 2 for Production” but fails to identify such documents in sufficient detail (i.e. a Bates-number or file name) to enable Glas-Weld to locate and identify them as readily as Michael Boyle. Doc. No. 115-2, pp. 3 - 4 & 11.
- Michael Boyle’s Response to Interrogatory Nos. 6 and 16 - 18, which ask for information relating to Michael Boyle’s documents and communications with third parties relating to Glas-Weld its customers, its products or the Accused products, also refer to “documents being made available for inspection and copying in response to Plaintiff’s Requests 1 and 2 for Production” but fail to identify such documents in sufficient detail (i.e. a Bates-number or file name) to enable Glas-Weld to locate and identify them as readily as Michael Boyle. Doc. No. 115-2, pp. 6 & 9 - 11.

Glas-Weld informed Michael Boyle of these deficiencies on November 27, 2013, but he did nothing to supplement his responses or otherwise cure the deficiencies. Doc. No. 115-2. As also noted in the Glas-Weld Summary Judgment Briefs, Michael Boyle has

yet to produce a full sample of any Accused Product at issue in this litigation, as
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requested in Glas-Weld Document Request No. 28. Doc. No. 115, pp. 13 & 20-21; see *also* Doc. No. 47-2, p. 9. Glas-Weld also notified Michael Boyle, via his attorney, on May 8, 2014, that he needed to supplement the little information he had previously provided in advance of the expert report deadlines. Ex. A (May 8, 2014 Email). Michael Boyle refused to do so. Lastly, on May 15, 2014, Glas-Weld served on Michael Boyle, via his attorney, Interrogatory No. 20, relating to experts, which Michael Boyle simply ignored. Ex. B (Glas-Weld's Second Set of Interrogatories to Michael Boyle).

2. Christopher Boyle's Refusal to Comply With the Federal Rules of Civil Procedure

As detailed in the Glas-Weld Summary Judgment Briefs, Christopher Boyle has also ignored his discovery obligations by refusing to (1) produce any documents, (2) make a good faith effort to respond to Glas-Weld's Requests for Admission, and (3) provide substantive answers to certain interrogatories. Doc. No. 96, p. 10; Doc. No. 97-8; Doc. No. 115, pp. 7-8. Glas-Weld served its discovery requests on Christopher Boyle on October 15, 2013, and again on December 20, 2013. Christopher Boyle has not produced a single document or thing responsive to any request for production. Doc. No. 115, pp. 2 & 13. Christopher Boyle provided delinquent responses to Glas-Weld's interrogatories and requests for admission on February 20, 2014. (Doc. No. 97-7 & 97-8). In those responses, Christopher Boyle universally denied every request for admission asking whether a claim term was present in the Accused Products, even denying the presence of claim terms that are not at issue, such as a "cylinder" in the Accused Resin Injector Products, and "light bulb/source" in the Accused Products. Doc. No. 96, pp. 10-11; Doc. No. 115, pp. 6-7; *see, e.g.*, Doc. No. 97-8, pp. 4 (Request No. 3) and 20 (Request No. 101).

Christopher Boyle also failed to provide substantive answers to many of Glas-Weld's Interrogatories. Doc. No. 96 at p. 10; *see also* Doc. No. 97-7. Specifically:

- Christopher Boyle's response to Interrogatory Nos. 2, 3, & 20, which ask for information relating to the identification, manufacture and sale of the Accused Products, merely state his objection "on the basis of my aforementioned General Objections." Doc. No. 97-7, pp. 5 - 6 & 23.
- Christopher Boyle's Answer to Interrogatory Nos. 6, 16, & 19, which ask for information relating to Christopher Boyle's documents and communications with third parties relating to Glas-Weld, its customers, its products or the Accused Products, also merely state his objection "on the basis of my aforementioned General Objections." *Id.*, pp. 9, 19 & 22.
- Christopher Boyle's Answer to Interrogatory Nos. 9, 10, & 15, which ask him to state the basis for various affirmative defenses, merely state his objection "on the basis of my aforementioned General Objections." *Id.*, pp. 12 - 13, & 15.

Despite living and working with Defendant Michael Boyle, Christopher Boyle's responses to other Interrogatories, such as Interrogatory Nos. 1 & 18, include irrelevant and extraneous information while either expressly claiming or impliedly suggesting that he does not have access to the information requested. *Id.* at p. 4 & 21. Glas-Weld notified Christopher Boyle of the deficiencies in his responses on March 4, 2014. Doc. No. 115-5. He has refused to supplement the same.

3. Defendants' Refusal to Comply with the Court's June 2, 2014 Order

Glas-Weld noted in its Reply in Support of its Motion for Partial Summary Judgment (Doc. No. 115) – filed April 24, 2014 three weeks before the close of fact discovery – that the Court had grounds for granting Glas-Weld summary judgment and a default judgment against the Boyles due to their ongoing discovery violations. Nevertheless, neither Defendant supplemented their discovery responses or attempted to address any of the deficiencies highlighted therein or previously brought to their attention before fact discovery closed.

After the May 16, 2014 close of fact discovery, the Court *sua sponte* ordered that Defendants provide "complete responses" to pending discovery requests, and stayed its decision on the Motion for Summary Judgment pending the Court's order on claim

construction. Doc No. 123 (June 2, 2014 Order). In Glas-Weld's Response to David Madden's Motion to Withdraw (Doc. No. 126), Glas-Weld noted that "over a year after Glas-Weld served its initial discovery requests on Michael Boyle, his production and responses remain deficient ... [and] Glas-Weld has little confidence that either defendant will comply with the Court's June 2 Order[.]" Doc. No. 126, at p. 5. The Court's June 24, 2014 Order granting Mr. Madden's Motion to Withdraw reiterated that "both Michael and Christopher Boyle remain bound by the Court's order to comply with outstanding discovery requests by July 2, 2014." Doc. No. 127.

On July 2, 2014, Michael Boyle served the deficient supplemental response attached hereto as Exhibit C, claiming that his inability to communicate with Mr. Madden precluded his ability to respond to the request. Ex. C, p. 3. Other than referencing Requests for Admission Nos. 8 & 12, which are not at issue, Michael Boyle did not make **any** attempt whatsoever to cure any of the other pending discovery requests, and did not produce a single additional document.

On July 2, 2014, Christopher Boyle served the supplemental response attached hereto as Exhibit D. Christopher Boyle provided a delinquent response to Glas-Weld's Second Set of Interrogatories served on him on May 15, 2014, and also provided an incomplete response to Interrogatory No. 7, listing claim terms he alleges are not present in the Accused Products, but not providing a claim chart or any other explanation or facts supporting his claim that those elements are not present. Ex. D. However he too makes no effort to address any of the other delinquent discovery responses.

Simply put, both defendants ignored this Court's clear order to provide complete discovery and failed to produce any documents or things responsive to Glas-Weld's requests for production on July 2, 2014.

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In an effort to give the Boyles reasonable leeway with respect to their obligations, on July 3, 2014, Glas-Weld notified defendants that their supplemental responses were “woefully deficient and fail to comply with the Court’s June 2, 2014 Order.” Ex. E. In the three weeks that have passed since that notification, both defendants have continued to ignore their obligations.²

III. ARGUMENT

Both defendants have willfully refused to comply with this Court’s orders compelling them to meet their discovery obligations. That willful refusal provides ample grounds for granting a default Judgment against Defendants. Rule 37 of the Federal Rules of Civil Procedure allows the Court to enter sanctions against a party who “fails to obey [a discovery] order” by “(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims; (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence; (iii) striking pleadings in whole or in part; ... (vi) rendering a default judgment against the disobedient party; or (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.” Fed. R. Civ. P. 37(b)(2)(A); *Rainbow Pioneer #44-18-04A v. Hawaii Nevada Investment Corp.*, 711 F.2d 902, 906 (9th Cir. 1983) (“[A]ffirm[ing] the district court’s order of default and partial default judgment” due to a Defendant’s “willful and unjustifiable” actions of failing to produce documents and answer interrogatories.); *U.S. v. Harkins*, 355 F.Supp.2d 1175, 1180 (D.Or. 2004). (Relying on the fact that “defendant has been completely uncooperative with plaintiff’s counsel in refusing to answer questions, or respond to discovery” in granting summary judgment and injunctive relief against defendant.). “[A]n

² On July 23, Michael Boyle adopted via email as his response to Interrogatory No. 8, Christopher Boyle’s response to Interrogatory No. 7 served on July 2, 2014. As explained above, Christopher Boyle’s response is insufficient.

evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.” Fed. R. Civ. P. 37(a)(4).

The Boyles have been unashamed in their pursuit of a litigation strategy of withholding responsive, discoverable information in order to drive up litigation costs for Glas-Weld – precisely the strategy that the Federal Rules of Civil Procedure, and more specifically Rule 37, are designed to stamp out.

Glas-Weld has been waiting for Michael Boyle to comply with his discovery obligations for over more than a year.³ Glas-Weld has obtained multiple orders compelling complete responses from Michael Boyle (Doc. Nos. 67, 123 & 127) and still Michael Boyle refuses to comply. More than two months after the close of fact discovery, on May 16, 2014, and despite orders from this Court, Michael Boyle’s interrogatory responses and document production remains incomplete and Glas-Weld remains no closer to obtaining responses from Defendants.

Since his entry into this lawsuit, Christopher Boyle has followed in his father’s footsteps. He served his discovery responses months late (Doc. No. 97-7 & 97-8), refused to address deficiencies in his responses brought to his attention over four months ago (Doc. No. 115-5), and refused to do so even when compelled by the Court’s order. Doc. No. 123 & 127. As detailed above, Christopher Boyle has not produced a single document in this matter, did not make a good faith effort to answer Glas-Weld’s Requests for Admission, and has refused to give substantive answers to numerous interrogatories.

Glas-Weld has been prejudiced by the Boyles’ refusal to follow this Court’s orders or otherwise adhere to the Federal Rules of Civil Procedure. Defendants’ willful intransigence has deprived Glas-Weld of information, including but not limited to, the factual bases for many of their affirmative defenses, samples of the Accused Products

³ Glas-Weld’s initial Motion to Compel was filed on July 22, 2013. (Doc. No. 40 & 41).
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at issue in this litigation and manufacture, and sales data for the Accused Products. The Boyles have demonstrated that they will not follow Court orders. Any further leeway will only serve to further prejudice Glas-Weld, and embolden the Boyles' apparent belief that this Court's orders are mere suggestions to be obeyed or ignored as they see fit.

IV. CONCLUSION

For the foregoing reasons, the Court should grant this Motion, and enter a Default Judgment against Defendants Michael Boyle and Christopher Boyle.

DATED: July 24, 2014

COSGRAVE VERGEER KESTER LLP

/s/ Paul A. C. Berg

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Attorneys for Plaintiff

Ashley M. Long

From: Javier Sobrado <jsobrado@FeldmanGale.com>
Sent: Thursday, May 08, 2014 4:34 PM
To: Chris Boyle; David Madden
Cc: James A. Gale, Esq.; Paul Berg; Robert Barton
Subject: Glas-Weld v. Boyle -- Expert reports

Messrs. Boyle and Madden:

Following up to my email of March 26, 2016, the Court set the close of expert discovery on July 18, 2014, but did not expressly set dates for when the expert reports were due. Will Defendants stipulate to having opening expert reports (for the party bearing the burden of proof) due May 23, 2014, and rebuttal expert reports due June 20, 2014?

Additionally, in anticipation of expert report deadlines, please immediately supplement Michael Boyle's production of documentation for all sales of Accused Products through the present.

Regards,
-Javier

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Plaintiff,

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MICHAEL P. BOYLE, dba SURFACE
DYNAMIX

Defendant.

Case No. 6:12-cv-02273-

**PLAINTIFF GLAS-WELD SYSTEMS,
INC.'S SECOND SET OF
INTERROGATORIES (NO. 20) TO
DEFENDANT MICHAEL P. BOYLE**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure Plaintiff Glas-Weld Systems, Inc. requests that Defendant Michael. P. Boyle answer the following interrogatories in writing, under oath, and within thirty (30) days.

DEFINITIONS

As used herein, the words and phrases set forth below shall have the meaning or meanings prescribed for them:

1. "You," "your," and "Boyle" means defendant Michael P. Boyle and Surface Dynamix, including all of its parent, subsidiary, and related companies and its and their agents, officers, employees, partners, representatives, and consultants.

2. "Person" means any natural person, business entity (whether corporation, firm, partnership, joint venture, proprietorship or association), government body, or any other organization or entity, including but not limited to groups of natural persons acting in an organizational capacity, such as a board of directors or committee of such board.

3. "Communication" means, without limitation, any oral, written or electronic transmission of information between two or more persons.

4. "Date" means the exact, day, month, and year if ascertainable, or if not, your best approximation thereof.

5. "Describe" means to provide a narrative statement or description, phrased in specifics, of the facts or matters to which the Interrogatory refers, including, but not limited to, an identification of all persons, communications, acts, transactions, events, agreements, recommendations, and documents used, necessary, or desirable to make such statement or description complete.

GLAS-WELD'S SECOND SET OF INTERROGATORIES TO MICHAEL BOYLE

6. “Document” is synonymous in meaning and equal in scope with the broadest usage of such term ascribed in Federal Rule of Civil Procedure 34. “Document” includes, without limitation, any tangible thing and any writing and each original, master, and every copy of the following items, however reproduced: books, accounting records of any nature, agreements, communications, correspondence, electronic mail messages, text messages, SMS messages, MMS messages, social media messages or posts, telegrams, cables, telexes, facsimile documents, memoranda, recordings, studies, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries or records of instant message conversations, diaries, letters, forecasts, statistical statements, graphs, laboratory or engineering reports or records, notebooks, charts, plans, sketches, drawings, information-bearing photographic products of any nature, phonograph records, microfilms, tape records, minutes or records of meetings or conferences, expressions of statements or policy, lists of persons attending meetings or conferences, reports or summaries of interviews, reports or summaries of investigations, opinions or reports of consultants, patent appraisals, opinions of counsel, records, reports, or summaries of negotiations, sales literature of any nature, brochures, catalogues, catalogue sheets, price lists, pamphlets, periodicals, advertisements, circulars or trade letters, press releases, trade releases, publicity releases, new product releases, reprints, drafts, working papers, indices, notes of any nature, marginal notes appearing on any documents, computer printouts, computer disks, computer memory files, and other data compilations from which information can be obtained or translated into

reasonably useable form, if necessary, through detection devices. Finally, “document” includes both the “document” and anything appended thereto.

7. “Identify” means:

- a. When used in reference to a natural person, to state: (i) such person’s full name; (ii) any other name used by the person presently or in the past; (iii) the person’s relationship to you; (iv) the person’s current or last known address and telephone number; (v) and the person’s current or last known business affiliation and position;
- b. When used in reference to a person other than a natural person, including, but not limited to, any corporation, partnership, association, foundation, trust, organization, or other entity or functional division thereof, to state: (i) such entity or division’s full name; (ii) the address of the entity or division’s principal office or place of business; (iii) all names under which the entity or division is doing business or has ever done business; (iv) the nature of the venture (*e.g.*, sole proprietorship, partnership, corporation, etc.); and (v) the identities of the entity or division’s officers, directors, partners, and/or administrators.
- c. When used in reference to a document, to state: (i) the type of document (*e.g.* letter, memorandum, chart, etc.); (ii) the identity of the document’s author(s); (iii) the identity of the document’s recipient(s); (iv) the date the document was prepared; (v) the date(s)

you transmitted and/or received the document; (vi) and a description of the document's subject matter and content;

- d. When used in reference to a communication, to state—
- (i) the date, time, places of origin and reception, manner, and subject matter of such communication;
 - (ii) the identity of each person who was present at or participated in such communication;
 - (iii) the identity of the person(s) to whom the communication was directed;
 - (iv) the type of communication (*e.g.*, letter, facsimile transmission, face-to-face conversation, telephone conversation, electronic mail message, instant message, etc.)
 - (v) the identity of any and all documents that related, in whole or in part, or referring to such communication; and
- e. When used with respect to a fact, to: (i) describe the fact; (ii) state when the fact became known to you; (iii) identify the source from which you learned the fact; (iv) identify the documents that record, show, or refer to the fact; and (v) state why it is believed that the fact is true.

8. "Relate to," "related to," "relating to," "regarding," or "concerning," and similar terms mean in any way to refer to, consist of, mention, describe, evidence, constitute, consider, discuss, contain, analyze, identify, incorporate, embody, pertain to,

report on, show, study, support, be legally, logically or factually connected with, or reflect, in whole or in part, directly or indirectly, a stated subject matter.

9. "State the factual basis" means to: (a) describe with particularity all facts supporting your allegation, denial, affirmative defense or statement; (b) identify all persons having knowledge of such facts; and (c) identify all documents and communications evidencing, supporting, or referring, relating or pertaining to such facts.

10. "The '180 Patent" means U.S. Patent No. 5,670,180.

11. "The '372 Patent" means U.S. Patent No. 6,898,372.

12. The "Glas-Weld Patents-in-Suit" means collectively the '180 Patent and the '372 Patent.

13. "Resin Injection Products" means any and all glass repair products which include a structure that can be mounted to glass in order to apply resin to damaged portions of the glass.

14. "Accused Resin Injection Products" means any and all Resin Injection Products sold by Boyle and/or Surface Dynamix having a cylinder with a central bore, a piston and a shaft portion having a helical groove, including without limitation Surface Dynamix's DynaVac products and substantially similar products.

15. "Curing Lamp Products" means products which include a lamp for glass repair having a light source for curing resin that has been applied to damaged glass.

16. "Accused Curing Lamp Products" means any and all Curing Lamp Products sold by Boyle and/or Surface Dynamix having a light bulb and housing having a substantially annular shape, including without limitation Surface Dynamix's HALO Curing light products and substantially similar products.

17. “Accused Products” means the Accused Resin Injection Products and the Accused Curing Lamp Products.

INSTRUCTIONS

1. You shall answer each Interrogatory separately and fully in writing under oath. To the extent, if at all, you object to any of the Interrogatories herein, in whole or in part, you shall state the objection and the grounds therefor, and you shall respond to the portion of the Interrogatory to which no objection is asserted.

2. You shall provide full and complete responses to each Interrogatory, after conducting a diligent and thorough investigation into all information within your possession, custody, or control. If you cannot provide a full and complete response to any Interrogatory or portion thereof, you shall respond to the Interrogatory or portion to the extent possible, specifying the portion you are unable to answer and providing whatever information you have regarding the unanswered portion.

3. With respect to any Interrogatory calling for the identification or listing of documents, you may, in lieu thereof, attach a copy of such document(s) and identify the Interrogatory number to which each document relates.

4. Should you claim in response to any Interrogatory that the information is “privileged” or not otherwise subject to discovery (whether on grounds of attorney-client privilege, attorney work-product immunity, or otherwise), you shall identify the nature of such information, including any related documents, the date of such information, the source of such information, and all persons to whom the information was disclosed, and you shall set forth the basis for the claim that such information is “privileged” or otherwise properly withheld.

5. As used herein, and as appropriate in the context, terms in the singular include the plural and vice-versa, terms in the masculine include the feminine and neutral genders, the term “between” means “among” and vice-versa, and terms in the past tense include the present tense and vice-versa, when clear meaning is not distorted by changing tense.

6. As used herein, “and,” “or,” and “and/or” have interchangeable meanings, and the terms are to be read and responded to in the most inclusive and expansive fashion possible.

7. As used herein, “any,” “all,” “each,” and “every” have interchangeable meanings, and the terms are to be read and responded to in the most inclusive and expansive fashion possible.

8. The following Interrogatories shall be deemed continuing in nature so as to impose on you, without further request from Defendants, a duty to provide supplemental responses whenever you obtain information that has the effect of rendering any response previously propounded inaccurate, inadequate, or incomplete.

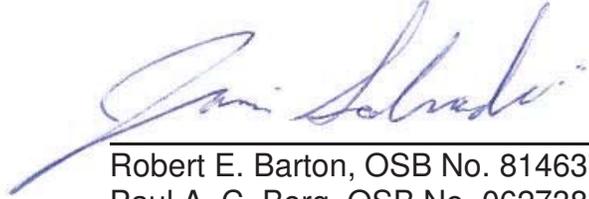
INTERROGATORIES

INTERROGATORY NO. 20

Identify all experts that you have retained in this matter, and for each expert provide: the nature of their expertise; the topics on which they have provided, or will be providing, expert opinion; the opinions that they have provided, or will provide; all facts, documents and data considered by the expert; the facts, documents and data upon which the expert relied in forming their opinions; identify any exhibits that will be used to summarize or support the expert's opinions; the expert's qualifications, including a list of all publications authored in the previous 10 years; a list of all other cases in which, during the previous 4 years, the expert testified as an expert at trial or by deposition; and the compensation to be paid for the expert's study and testimony in the case, whether monetary or otherwise.

DATED: May 15, 2014

COSGRAVE VERGEER KESTER LLP



Robert E. Barton, OSB No. 814637
Paul A. C. Berg, OSB No. 062738
Telephone: (503) 323-9000
Fax: (503) 323-9019
E-mail: rbarton@cosgravelaw.com
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James A. Gale, FSB No. 371726
Gregory L. Hillyer, FSB No. 682489
Javier Sobrado, FSB No. 44992
Out-Of-State Counsel
Telephone: (305) 358-5001
Fax: (305) 358-3309
Email: JGale@feldmangale.com
GHillyer@feldmangale.com
JSobrado@feldmangale.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **SECOND SET OF INTERROGATORIES (NO. 20) TO MICHAEL BOYLE** on May 15, 2014 by:

- mail with postage prepaid, deposited in the US mail,
- hand delivery,
- facsimile transmission,
- overnight delivery,
- electronic notification or email.

If served by facsimile transmission, attached to this certificate is the printed confirmation of receipt of the document(s) generated by the transmitting machine. I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorney(s) at the address(es) listed below:

Christopher Boyle (**VIA EMAIL**)
chrismboyle@gmail.com
Defendant Pro Se

David H. Madden (**VIA EMAIL**)
dhm@mersenne.com
Counsel for Defendant Michael P. Boyle



VERIFICATION

I, _____, have read the foregoing Answers to Glas-Weld's Second Set of Interrogatories (Nos. 20). I have personal knowledge of the Answers contained herein, and thus believe and on that ground allege that the matters stated in the foregoing document are true and correct.

I declare under penalty of perjury under 28 U.S.C. § 1746 and the laws of the United States of America that the foregoing is true and correct.

By: _____

Dated: _____, 2014

Defendant Michael P. BOYLE Pro Se
88932 Sagebrush Lane
Bend OR. 97701
541-326-6995



UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION



GLAS-WELD SYSTEMS, INC.
Plaintiff,

v.

**Michael P. BOYLE and
Christopher M. BOYLE,**
Defendants

Civil Action No.:6:12-cv-2273-AA



**MICHAEL BOYLE’S RESPONSE TO
PLANTTIFS REQUEST FOR
OUTSTANDING DISCOVERY**

GENERAL OBJECTIONS

Each of plaintiffs’ responses, in addition to any specifically stated objections, is subject to and incorporates the following General Objections. The assertion of the same, similar, or additional objections, or a partial response to an individual interrogatory does not waive any of defendants General Objections.

1. Plaintiffs object to these interrogatories to the extent that they are over-broad and unduly burdensome and impose obligations in excess of those imposed by the Federal Rules of
2. Defendant objects to these interrogatories to the extent that they seek to impose burdens or obligations inconsistent with, or in excess of, those imposed by the Federal Rules of

Civil Procedure, the Local Rules, or any other applicable rules and statutes. Defendant will respond to each of the Requests in accordance with the requirements of the Federal and Local

3. Defendant objects to these interrogatories to the extent that they seek information that is neither relevant to the claims or defenses of any party to this litigation, nor reasonably calculated to lead to the discovery of admissible evidence.

4. Defendant objects to these interrogatories to the extent that they seek information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, protection, or immunity. No information subject to such privilege, protection, or immunity will be provided.

5. The inadvertent disclosure by defendant of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, protection, or immunity, shall not constitute a waiver by plaintiffs of such protection.

6. In response to these interrogatories, defendant does not concede that any of the responses or information contained herein is relevant or admissible. defendant reserves the right to object, on the grounds of competency, privilege, relevance, materiality, or otherwise, to the use of this information for any purpose, in whole or in part, in this action or in any other action.

7. Defendant objects to these interrogatories on to the extent that they seek solely to expose trade secrets and provide the Plaintiff with secret information which would create and Disproportionate competitive advantage in favor of the Plaintiff.

8. Defendant object to these interrogatories to the extent that they call for legal conclusions or otherwise attempt to re-cast legal issues as factual matters. e.g., *Lakehead Pipe Line Co. v. Am. Home Assurance Co.*, 177 F.R.D. 454, 458 (D. Minn. 1997) (finding requests for ratification of legal conclusions applied to operative facts of the case to represent improper request for admission of pure matter of law); *English v. Cowell*, 117 F.R.D. 132, 135 (C.D. Ill.

9. Defendant objects to any interrogatories that employs imprecise specifications of the information sought as vague and ambiguous.

10. Unless otherwise stated, interrogatories will not provide any information encompassed by the foregoing objections.

The following Responses reflect defendants present knowledge, information and belief and may be subject to change or modification based on defendant further discovery, or facts or circumstances which may come to plaintiffs' knowledge. Defendant specifically reserve the right to further supplement, amend or otherwise revise their Responses to these Requests in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORIES

INTERROGATORY NO. 8

With respect to each claim of the Glas-Weld Patents-in-Suit, provide a claimchart that explains in complete detail the basis for your contention that the claim is not infringed by the making, sale, offer for sale and/or use of the Accused Products, either literally or under the doctrine of equivalents, specifically noting what element(s) or limitation(s) of each claim is missing in the Accused Products.

Answer: As of the date this document was submitted, defining claims is a matter of law, providing any answer would be premature. As claims construction has been brought before the court, it would be premature to define any claim for either accused product. Defendant has been unable to confirm or deny that prior counsel (David Madden) has responded to the above Interrogatory. Mr. Madden has been unresponsive to any request for supporting documentation. The defendant reserves the right to modify answer if more information becomes available. Defendant will attempt to compel prior counsel to supply more documentation regarding this request.

ADMISSIONS 8 & 12

Defendant is not able to answer requested admissions as past counsel has nit provided all documentation requested. In addition the Plaintiff has refused to send copies of admissions to the defendant unable to verify what has been answered by past counsel (David Madden). See Exhibits A and B

Defendant has attempted to confer with the Plaintiffs for assistance in confirming discover request, they have been uncooperative and unresponsive placing undue burden on the defendant.

Date

Michael Boyle

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the document entitled:

Michael BOYLE's Requests for Request for documents and Inteerogatories GLAS-WELD Systems, Inc., First Set

was served upon the parties listed below on the date indicated,

- by handing it to the person;
- by leaving it at the leaving it at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- by mailing it to the address indicated;
- by leaving it with the court clerk;
- by electronic filing notification (PACER); or
- other: JGale@FeldmanGale.com, GHillyer@FeldmanGale.com, JSobrado@FeldmanGale.com, rbarton@cosgravelaw.com, pberg@cosgravelaw.com

James A. Gale, Esq.
Javier Sobrado, Esq.
Gregory L. Hillyer, Esq.
Feldman Gale, P.A.
One Biscayne Tower, 30th Floor
2 South Biscayne Boulevard
Miami, Florida 33131
Attorneys for Plaintiff Glas-Weld Systems, Inc.

Michael P Boyle
66932 Sagebrush Lane
Bend, Oregon 97701
Pro se defendant

Date

Michael P Boyle

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

GLAS-WELD SYSTEMS, INC., an Oregon
Corporation,
AA

Plaintiff,

v.

MICHAEL P. BOYLE, dba SURFACE
DYNAMIX, and CHRISTOPHER M. BOYLE

Defendant.

Case No. 6:12-cv-02273-

Defendant Christopher Boyle's reply to
plaintiff's INTERROGATORIES
(NOS. 7&24)

General Objections

Each of plaintiffs' responses, in addition to any specifically stated objections, is subject to and incorporates the following General Objections. The assertion of the same, similar, or additional objections, or a partial response to an individual interrogatory does not waive any of defendants General Objections.

1. Plaintiffs object to these interrogatories to the extent that they are over-broad and unduly burdensome and impose obligations in excess of those imposed by the Federal Rules of Civil Procedure.

2. Defendant objects to these interrogatories to the extent that they seek to impose burdens or obligations inconsistent with, or in excess of, those imposed by the Federal Rules of Civil Procedure, the Local Rules, or any other applicable rules and statutes. Defendant will respond to each of the Requests in accordance with the requirements of the Federal and Local Rules.

3. Defendant objects to these interrogatories to the extent that they seek information that is neither relevant to the claims or defenses of any party to this litigation, nor reasonably calculated to lead to the discovery of admissible evidence.

4. Defendant objects to these interrogatories to the extent that they seek information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, protection, or immunity. No information subject to such privilege, protection, or immunity will be provided.

5. The inadvertent disclosure by defendant of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, protection, or immunity, shall not constitute a waiver by plaintiffs of such protection.

6. In response to these interrogatories, defendant does not concede that any of the responses or information contained herein is relevant or admissible. defendant reserves the right to object, on the grounds of competency, privilege, relevance, materiality, or otherwise, to the use of this information for any purpose, in whole or in part, in this action or in any other action.

7. Defendant objects to these interrogatories on to the extent that they seek solely to expose trade secrets and provide the Plaintiff with secret information which would create and disproportionate competitive advantage in favor of the Plaintiff.

8. Defendant object to these interrogatories to the extent that they call for legal conclusions or otherwise attempt to re-cast legal issues as factual matters. e.g., Lakehead Pipe Line Co. v. Am. Home Assurance Co., 177 F.R.D. 454, 458 (D. Minn. 1997) (finding requests for ratification of legal conclusions applied to operative facts of the case to represent improper request for admission of pure matter of law); English v. Cowell, 117 F.R.D. 132, 135 (C.D. Ill.

1986) (holding that requests for admission of existence of statute or that party is subject to statute constitute improper requests for legal conclusion).

9. Defendant objects to any interrogatories that employs imprecise specifications of the information sought as vague and ambiguous.

10. Unless otherwise stated, interrogatories will not provide any information encompassed by the foregoing objections.

The following Responses reflect defendants present knowledge, information and belief and may be subject to change or modification based on defendant further discovery, or facts or circumstances which may come to plaintiffs' knowledge. Defendant specifically reserve the right to further supplement, amend or otherwise revise their Responses to these Requests in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORIES

INTERROGATORY NO. 7

Response: I object to interrogatory No.7 on the basis of of my aforementioned General Objections. Alternatively, this request seek legal conclusions which have not yet been set forth by the court through the claims construction process. As such it is not currently possible to provide the information requested in interrogatory No. 7. This response may be amended upon completion of the courts claims construction ruling.

Alternatively , **Patent '180:** Claim #1; the alleged infringing product have no helical thread form; No mechanism for convertibility; and no plunger member. **Patent '372:** Claim #1; the alleged infringing product does not mount on a resin injection system. Claim #14; the alleged infringing product does not have a bulb which is “radially inward” of a support structure or a light bulb that is “relatively close” in diameter. Claim #20; the alleged infringing product does not have a connectable power cord or a handle configured to receive a connectable power cord.

INTERROGATORY NO. 24

Response: At this time defendant Christopher Boyle has yet to secure any experts.

VERIFICATION

I, Chris Boyle, have read the foregoing Defendant Christopher Boyle's reply to plaintiff's INTERROGATORIES (NOS. 7&24). I have personal knowledge of the Answers contained herein, and thus believe and on that ground allege that the matters stated in the foregoing document are true and correct.

I declare under penalty of perjury under 28 U.S.C. § 1746 and the laws of the United States of America that the foregoing is true and correct.

By: Chris Boyle

Dated: 7-2, 2014

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Defendant Christopher Boyle's reply to plaintiff's INTERROGATORIES (NOS. 7&24) on July 2nd, 2014 by:

- mail with postage prepaid, deposited in the US mail,
- hand delivery,
- facsimile transmission,
- overnight delivery,
- electronic notification or email.

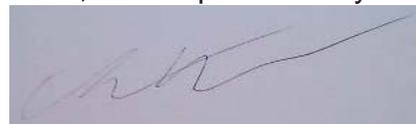
If served by facsimile transmission, attached to this certificate is the printed confirmation of receipt of the document(s) generated by the transmitting machine. I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorney(s) at the address(es) listed below:

Attorneys for Plaintiff

Robert E. Barton, OSB No. 814637
E-mail: rbarton@cosgravelaw.com
Paul A. C. Berg, OSB No. 062738
E-mail: pberg@cosgravelaw.com

James A. Gale, FSB No. 371726
E-mail: JGale@feldmangale.com
Gregory L. Hillyer, FSB No. 682489
E-Mail: GHillyer@FeldmanGale.com
Javier Sobrado, FSB No. 44992
E-Mail: JSobrado@FeldmanGale.com

Defendant Pro Se, Christopher M. Boyle



Defendant Christopher Boyle's reply to plaintiff's INTERROGATORIES (NOS. 7&24)

Ashley M. Long

From: Javier Sobrado <jsobrado@FeldmanGale.com>
Sent: Thursday, July 03, 2014 3:01 PM
To: Mike Boyle; chrismboyle@gmail.com
Cc: James A. Gale, Esq.; Paul Berg; Robert Barton; Nikea J. Smedley; Gregory L. Hillyer
Subject: RE: Open items

Messrs. Boyle:

As we have explained to you, in order to avoid any confusion, we prefer to keep all communications with Defendants in writing going forward.

We continue to await the Court's order on claim construction before coordinating the limited depositions that may be appropriate thereafter. We are not aware of any order that reopens fact discovery.

If you wish to discuss settlement, please provide a proposal in view of the consent order that we have provided you.

Glas-Weld cannot provide you with any legal or medical advice regarding the scheduling of medical procedures.

As we have explained before we do not believe you have any grounds for a motion to compel. They appear to be directed to documents that were produced to you directly or to your attorney, documents unrelated to this case, documents that are designated as ATTORNEYS' EYES ONLY, or documents that were not requested during discovery. Glas-Weld will oppose any such motion and seek appropriate relief from the Court for same.

You have not explained what you seek in your alleged "motions to reclassify" or provided any rationale therefor. You have also not provided any grounds or rationale for your alleged motions to disqualify. Accordingly Glas-Weld cannot agree to same.

We also note that Defendants' supplementary responses are woefully deficient and fail to comply with the Court's June 2, 2014 Order.

Regards,
-Javier

From: Mike Boyle [surfacedynamix@gmail.com]
Sent: Thursday, July 03, 2014 10:08 AM
To: James A. Gale, Esq.; Javier Sobrado; Paul Berg; Robert Barton; Nikea J. Smedley; Gregory L. Hillyer
Subject: Open items

Javier

I wanted to follow up on pressing matters. Please arrange a time for a call to discuss these items

1. Status on inspection of accused products.
2. Scheduling of depositions
3. Location of depositions
3. Judges order reopening fact discovery.
4. Settlement on the 180

5. Scheduling medical procedures

6. Motions to compel

- MTC employee file
- MTC IPISC Policy and Sandra Walkers communications between her and defendants
- MTC Sales information from GlasWeld to identify alleged damages
- MTC Documents between GlasWeld and Glass Mechanix regarding licensing.

Motions to reclassify

- MTR All e-discovery
- MTR All Attorney eyes only docs from GlasWeld

This is a start as I am wading thru past communications between Mr. Madden and GlasWeld.

MB