

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

NAVISTAR, INC.; PURE POWER
TECHNOLOGIES, LLC; and
INTERNATIONAL ENGINE
INTELLECTUAL PROPERTY
COMPANY, LLC,

Plaintiff,

v.

PURE POWER, LLC,

Defendant.

Case No. 4: 12-CV-013-BLW

ORDER

The Court's Law Clerk held a telephone conference with all counsel concerning a discovery dispute on November 9, 2012. The parties reached agreement on some matters while other issues were left to be resolved by motion.

The dispute arose because defense counsel failed to communicate with plaintiffs' counsel, and has either failed to file discovery responses or filed them late. The plaintiffs argue that their requests for admission should be deemed admitted and that they should be awarded the costs and fees they incurred in preparing for, and participating in, the conference held today. Plaintiffs also ask that any objections to their interrogatories be deemed waived because no objections were timely made.

The Court will authorize plaintiffs to file separate motions to (1) deem their requests

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admitted and defendant's objections waived, and (2) be awarded their costs and fees. Because the parties did reach agreement on a ten-day extension to file some discovery responses, the plaintiffs may want to wait to file their motion for costs and fees to see if defense counsel complies with that new deadline. The Court will leave the timing of the motion up to plaintiffs' counsel. Accordingly,

NOW THEREFORE IT IS HEREBY ORDERED, that defendant shall file on or before November 19, 2012, the following: (1) initial disclosures; (2) written responses to plaintiffs' requests for production and interrogatories; and (3) all documents responsive to plaintiffs' outstanding requests for production.

IT IS FURTHER ORDERED, that the plaintiffs are authorized to file motions on the issues discussed above concerning the requests for admission, objections to interrogatories, and costs and fees. The Court will leave the timing of those filings to the plaintiffs.

IT IS FURTHER ORDERED, that the remaining deadlines in the Case Management Order (docket no. 19) be extended as follows: (1) all discovery shall be completed on or before March 19, 2013; (2) plaintiffs shall disclose the experts they intend to call at trial on or before January 19, 2013; (3) defendant shall disclose the experts they intend to call at trial on or before February 19, 2013; (4) all rebuttal experts shall be identified on or before March 3, 2013; and (5) dispositive motions shall be filed on or before April 18, 2013. All other provisions of the Case Management Order (docket no. 19) shall remain in full force and effect.



DATED: **November 9, 2012**

B. Lynn Winmill

B. LYNN WINMILL

Chief Judge

United States District Court