

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNIVERSAL DYNAMICS, INC.,)	
)	
Plaintiff,)	
)	
vs.)	8:08CV391
)	
H-P PRODUCTS, INC. and DAN)	ORDER
GAYLORD d/b/a INDEPENDENCE)	
PORCELAIN ENAMEL,)	
)	
Defendants.)	

This matter is before the court on the motion of defendant, H-P Products, Inc. ("H-P"), to compel discovery or, in the alternative, for an enlargement of time. Counsel for H-P has complied with the requirements of NECivR 7.0.1(i) and Fed. R. Civ. P. 37(a)(1). Plaintiff ("Universal") objects.

The Amended Final Progression Order (Doc. 67) filed on July 28, 2009 set the deposition deadline for October 30, 2009 and further required that all other discovery requests be served "sufficiently early to allow rule time response before the deposition deadline."

On September 30, 2009, H-P served requests for production of documents on Universal. The decision to serve these requests was prompted by Universal's service of related requests for admissions five days earlier. Universal did not respond to H-P's document requests until November 2, 2009, the very last date upon which a timely response could be filed under Fed. R. Civ. P. 34(b)(2) and 6(d).

Universal raised no substantive objections to H-P's document requests, but objected to all of the requests as untimely because H-P's service of the requests on September 30, 2009 was not sufficiently early to allow rule time response before October 30, 2009. H-P filed its motion to compel on November 4, 2009. Universal argues that the motion should be denied because it was filed after the October 30, 2009 deadline set in paragraph 2.c of the Amended Final Progression Order.

While Universal must be commended for its mastery and manipulation of the calendar, the court finds that H-P should be excused from strict compliance with the October 30 progression order deadline in this instance. Universal's position is not reasonable under the circumstances, and H-P has shown good cause for serving these document requests three days late. Universal raised no substantive objections to H-P's requests, and its time to do so has expired.

IT IS ORDERED that the motion of defendant, H-P Products, Inc. to compel discovery or, in the alternative, for an enlargement of time (Doc. 93) is granted. Universal Dynamics, Inc. shall produce all responsive documents no later than **November 18, 2009**.

DATED November 13, 2009.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**