

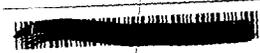
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RACETRAC PETROLEUM, INC.,)
)
 Opposer,)
)
 vs.)
)
 ETW CORPORATION,)
)
 Applicant.)

Opposition No. 117, 623

Trademark: **RACE WAY and
Design, Serial No. 75/321,745**

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01-21-2003

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #77

**OPPOSITION TO APPLICANT'S MOTION
TO EXTEND TESTIMONY PERIOD FOR THE SEVENTH TIME**

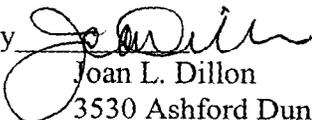
Opposer, RaceTrac Petroleum, Inc., objects to the seventh rescheduling of applicant's testimony period in this case. The applicant has, in spite of the Board's recent Order directing applicant to proceed with its testimony and declaring that Applicant would not be given additional time to take testimony, proffered yet another Motion to extend its testimony period on the most shallow of excuses, none of which are detailed or documented. Applicant simply indicates it could not take testimony again due to "holiday schedules, personal commitments and ongoing and unanticipated scheduling conflicts". There is no affidavit describing the necessity for the rescheduling nor any attempt to explain in any detail the reasons for yet another delay in moving forward.

Opposer is simply at a loss. In this case the Applicant has flaunted its duty to answer the discovery requests, indicating that it would do so, to the prejudice of Opposer, who let its time go by for filing a Motion to Compel, based upon those assurances. And Applicant now flaunts the Board's Order that it go forward with its Testimony Period or suffer denial of yet another request—in fact, this particular request.

ME

Opposer respectfully requests that the Board order the Applicant to show cause why this Opposition should not be sustained for default of Applicant to put in any proofs, or, in the alternative, that Applicant be ordered to respond to Opposer's discovery requests and that Opposer's Motion to Compel Applicant's answers, enclosed herein, be accepted and entered out of time.

Respectfully submitted,
JOAN DILLON LAW, LLC

By 

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Atlanta, GA 30319
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Attorney for Opposer
RaceTrac Petroleum, Inc.

Date:

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner of Patents and Trademarks, 2900 Crystal Drive, Arlington, VA, 22202-3513 on Jan. 16, 2003.



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CERTIFICATE OF SERVICE

This is to certify that I have on this date served a copy of the foregoing OPPOSITION TO APPLICANT'S MOTION TO EXTEND TESTIMONY PERIOD FOR THE SEVENTH TIME on Applicant's counsel by first-class mail, postage prepaid, addressed as follows:

Barbara A. Murphy, Esq.
Adduci, Mastriani & Schaumberg, LLP
1200 Seventeenth Street NW
Fifth Floor
Washington, D.C. 20036

This 16th day of January, 2003.

Respectfully submitted,
JOAN DILLON LAW, LLC

By

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