

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

RACETRAC PETROLEUM, INC.,)	
)	
Opposer,)	Opposition No. 117,623
)	
vs.)	Trademark: RACE WAY and
)	Design, Serial No. 75/321,745
ETW CORPORATION,)	
)	
Applicant.)	

**OPPOSER'S MOTION TO COMPEL ANSWERS
TO INTERROGATORIES AND PRODUCTION OF
DOCUMENTS, AND BRIEF IN SUPPORT THEREOF**

Now comes, Opposer Racetrac Petroleum, Inc., through its undersigned counsel, and pursuant to 37 C.F.R. § 2.120(e) and Rule 37 of the Federal Rules of Civil Procedure, hereby moves that the Board enter an order compelling Applicant to answer Opposer's First Set of Interrogatories to Applicant, completely and without objection, and to produce for inspection and copying all documents in Applicant's possession, custody or control, that are response to Opposer's First Set Of Requests For Production of Documents and Things to Applicant.

As its Brief in Support of this Motion, Opposer shows the Board as follows:

Statement of the Facts

Applicant ETW Corporation has filed an application for registration of the mark RACE WAY and Design, Serial No. 75/321,745. A Notice of Opposition was filed by Opposer Racetrac Petroleum, Inc. on March 3, 2000. In furtherance of the development of facts to support its action, Opposer's counsel has served upon Applicant's counsel, Barbara

A. Murphy, of the firm Adduci, Mastriani & Schaumberg LLP, Opposer's First Set of Interrogatories, served on August 13, 2001, to which a response was due on September 12, 2001 (Exhibit A), and Opposer's First Set of Requests For Production of Documents served on November 19, 2001, to which a response was due on December 19, 2001 (Exhibit B). To date, Opposer has not received responses from Applicant.

From the date of the service of discovery and for some time, an exchange of correspondence was made between Opposer's counsel and Applicant's counsel in the hope that a settlement of the opposition might be possible and not necessitate then the expense of the preparation and the filing of responses to the requests for discovery. These discussions went on for the period August through November 19, 2001, at which time, by letter of even date to Applicant's counsel, Ms. Murphy, Opposer's counsel served Opposer's First Set of Requests For Production of Documents and Things to Applicant, and advised counsel that there was no prospect for settlement. Additional time was granted on Ms. Murphy's request in hopes some settlement might be reached.

By letter November 19, 2001, Opposer's counsel asked that Ms. Murphy supply Opposer with Applicant's responses to the previously served discovery requests, and supplemented those Interrogatories previously served with a First Set of Requests for Production of Documents. (Exhibit B). No response was made to either the Interrogatories or the Request for Production. On February 13, 2002, Opposer's counsel wrote again demanding responses to the discovery requests. There was no response to that letter. On February 27, 2002, Opposer's counsel left a voice mail message to Ms. Murphy, again reiterating the need for responses to discovery. On February 28, 2002, Ms. Murphy left

Opposer's counsel a voice mail message indicating that she was available to speak about the matter, and on March 4, 2002, Opposer's counsel and Applicant's counsel spoke, and Ms. Murphy indicated she would look into whether or not Opposer's counsel would be getting responses and would get back to Opposer's counsel. On March 1, 2002, Ms. Murphy called Opposer's counsel to let her know that she could expect the responses prior to March 25, 2002, knowing that Opposer's counsel expected them prior to the taking of Opposer's testimony. They were not received.

Accordingly, Opposer's counsel moves this Board to compel Applicant's responses.

This Motion to Compel is controlled by 37 C.F.R. § 2,120(e), which provides in relevant part as follows:

If a party . . . fails to answer . . . any interrogatory, or fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion before the Trademark Trial and Appeal Board for an order to compel . . . an answer, or production and an opportunity to inspect and copy.

It is well established that, "[u]nder the Board's discovery practice, a party who fails to respond to a request for discovery during the time allowed therefore is deemed to have forfeited his right to object to the request on its merits unless he can show failure to timely respond was the result of excusable neglect." *Envirotech Corp. v. Compagnie Des Lampes*, 219 U.S.P.Q. 448, 449 (T.T.A.B. 1979); *see also, MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 U.S.P.Q. 952, 953 (T.T.A.B. 1979).

Despite Opposer's counsel's various requests that Applicant do so, Applicant has failed to provide any response whatsoever to Opposer's discovery requests. Applicant has offered no explanation to excuse this neglect since termination of settlement discussions, nor

has Applicant articulated any reason that approaches excusable neglect. To date, Applicant has simply refused to produce. Therefore, Opposer's Motion to Compel should be granted.

Conclusion

Opposer prays that the Board grant Opposer's Motion to Compel and order Applicant to answer Opposer's First Set of Interrogatories to Applicant, completely and without objection, and to produce for inspection and copying all documents requested in Opposer's First Set of Requests for Production of Documents and Things to Applicant at the location set forth in those Requests. In the meantime, Opposer has gone forward with its testimony period, and has not awaited a ruling on this Motion, although Opposer believes itself seriously prejudiced by the delay in obtaining information.

Dated: January 16, 2003

Respectfully submitted,

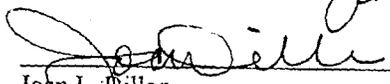
RACETRAC PETROLEUM, INC.

By: 
Joan L. Dillon
JOAN DILLON LAW, LLC
3520 Ashford Dunwoody Road
PMB 235
Atlanta, Georgia 30319

Attorney for Opposer, Racetrac Petroleum, Inc.

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: Assistant Commissioner of Patents and Trademarks, Attention: BOX TTAB - NO FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on Jan. 16, 2003


Joan L. Dillon

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

In the matter of Application Serial No. 75/321,745, RACE WAY and DESIGN
Published in the Official Gazette of October 5, 1999, at TM 24.

RACETRAC PETROLEUM, INC.)

Opposer,)

vs.)

ETW CORPORATION,)

Applicant.)

Opposition No. 117,623

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

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and TBMP § 406, Opposer RaceTrac Petroleum, Inc. ("Opposer") propounds the following interrogatories to be answered under oath within thirty (30) days by ETW Corporation. ("Applicant").

DEFINITIONS

A. "Opposer" shall mean RaceTrac Petroleum, Inc. and its officers, directors, employees, agents, attorneys, subsidiaries, affiliated companies, predecessors in interest, and any other person or entity acting on its behalf or subject to its control.

B. "Applicant" shall mean ETW Corporation and its officers, directors, employees, agents, attorneys, subsidiaries, affiliated companies, predecessors in interest, and any other person or entity acting on its behalf or subject to its control.

*EXHIBIT "A" TO OPPOSER'S
MOTION TO COMPEL
OPPOSITION No. 117,623*

C. "Opposer's Marks" shall refer individually and collectively to any of Opposer's names, marks, or designations incorporating the phrase "RACEWAY," including but not limited to the trademarks identified in paragraph 1 of the Notice of Opposition.

D. "Applicant's Mark" shall refer to any name, mark, or designation used by Applicant incorporating the terms "RACE" and/or "WAY," including, but not limited to, the mark "RACE WAY" which is the subject of Application Serial No. 75/321,745.

INTERROGATORIES

1. Identify each person involved in Applicant's selection, adoption, or first use of Applicant's Mark, and describe each such person's knowledge thereof.

2. Describe in detail all steps taken by Applicant to determine whether Applicant's Mark was available for use and registration prior to adoption.

3. State the reasons Applicant chose to adopt Applicant's Mark, all other names or designations that were considered, and the reasons for not adopting and using such other names or designations.

4. Identify each product or service for which Applicant has used or intends to use Applicant's Mark.

5. Describe the target or intended customers for each product or service for which Applicant has used or intends to use Applicant's Mark.

6. Identify all the ways in which Applicant's Mark has been used by Applicant or any other entity on Applicant's behalf.

7. Describe the channels of trade through which the goods or services identified in response to Interrogatory No. 4 have been or will be distributed, sold, or provided to purchasers.

8. State the prices of each of the products or services for which Applicant has used or intends to use Applicant's Mark.

9. Identify the individuals most knowledgeable concerning the sales and marketing efforts with respect to Applicant's goods and services, and state the duties, position, and tenure of each such individual.

10. Identify by city, state, or other geographical region each area in which Applicant or its distributors, agents, or sales representatives have provided, sold, or offered for sale, or intend to provide or offer for sale, products or services bearing Applicant's Mark and specify the dates or time periods during which such sales or offers of sale have been made on such goods or services.

11. Identify each person who is now or has been responsible for or has participated in the creation, preparation, or development of Applicant's advertising or promotion for products or services using Applicant's Mark.

12. Describe each type of advertising or promotional means used by Applicant to promote products or services under Applicant's Mark.

13. State by month, if available, or if not, for each separate period reflected in Applicant's books and records, Applicant's expenditures for each advertising or promotional medium used to promote products or services bearing, incorporating, or identified by Applicant's Mark.

14. For each instance of which Applicant has actual or hearsay knowledge of any inquiry or communication reflecting or suggesting any confusion, connection, or association between Applicant, Applicant's goods and services, or Applicant's Mark and Opposer,

Opposer's goods and services, or Opposer's Marks, or any actual or suggested association, mistake, or confusion by any person with regard to any affiliation, association, or connection between the parties,

- a) identify the persons involved;
- b) describe the nature of the inquiry or communication; and
- c) identify all persons with knowledge of the inquiry or communication.

15. Describe in detail any research, including any public opinion poll, survey, market research, or other analysis, Opposer has conducted or caused to be conducted with respect to Opposer's Marks or Applicant's Mark, including the nature, date, results, and person in charge of conducting such research.

16. State all facts supporting Applicant's denial of paragraph 9 of Opposer's Notice of Opposition that "Applicant's Goods are likely to be sold to and/or used by automotive filling station service providers, and because of the repute of Opposer's mark RACEWAY, the purchasing public is likely to mistakenly believe Applicant's Goods are associated with, sponsored by or emanate from Opposer."

17. State all facts supporting Applicant's denial of paragraph 10 of Opposer's Notice of Opposition that "purchasers are likely to encounter Opposer's mark RACEWAY and Applicant's mark RACE WAY under conditions that are likely to, because of the similarities between the marks and the strong public association of Opposer with automotive services, cause confusion or mistake as to their respective sources and lead those purchasing Applicant's Goods to mistakenly assume that they are sponsored by or emanate from Opposer."

18. State all facts supporting Applicant's denial of paragraph 11 of Opposer's Notice of Opposition that "There is no material difference between Applicant's alleged mark and Opposer's mark.

Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309
(404) 815-6500
(404) 815-6555 (facsimile)



John L. Dillon
John R. Renaud

Attorneys for RaceTrac Petroleum, Inc.

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

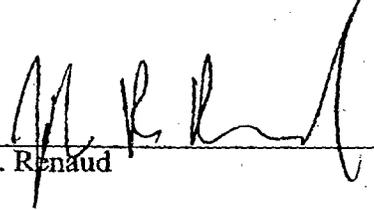
Trademark: RACE WAY and
Design, Serial No. 75/321,745

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT on Applicant's counsel by first-class mail, postage pre-paid, addressed as follows:

Barbara A. Murphy, Esq.
Adduci, Mastriani & Schaumberg, L.L.P.
1200 Seventeenth Street, N.W.
Fifth Floor
Washington, D.C. 20036

This the 13th day of August 2001.



John R. Renaud



KILPATRICK
STOCKTON LLP

Attorneys at Law

Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530
Telephone: 404.815.6500
Facsimile: 404.815.6555
Web site: www.KilpatrickStockton.com

November 19, 2001

JOAN L. DILLON
E-mail: JDillon@KilpatrickStockton.com
Direct Dial: 404.815.6533

VIA FACSIMILE (202) 466-2006
ORIGINAL BY U.S. FIRST CLASS MAIL

Ms. Barbara A. Murphy
Adduci, Mastriani & Schaumberg LLP
1200 "17th" Street, N.W., 5th Floor
Washington, D.C. 20036

Re: Opposition - Racetrac Petroleum, Inc., Opposer, vs. ETW Corporation,
Applicant, Serial No. 75/321,745 RACE WAY and Design
Opposition No. 117,623, Trademark Trial and Appeal Board
Our Ref. No. 33317-204062

Dear Barbara:

It appears that my client has had time now to review and to thoroughly consider the outstanding settlement offer made by you on behalf of your client. Accordingly, it appears we are going to go forward with the opposition to the registration of your client's mark. I recall that there are discovery requests outstanding, served by us on August 13, 2001, and to which a response was due September 12, 2001. We gave you additional time to respond during the discovery period for the reason that we had hoped that perhaps some settlement or acceptable accommodation could be made.

At this point, we are requesting that you supply us with your client's responses to previously-served discovery. We are also supplementing those Interrogatories previously served, with a First Set of Requests for Production of Documents. We note our discovery period closes on **December 16, 2001**, and accordingly, we would appreciate your getting the responses in within the next week or so, or perhaps agreeing to a stipulated extension of the discovery periods, perhaps another three months, to March 16, 2002. Please give me a call after you have had a chance to consider this and let me know how you would propose to approach this.

Cordially,

Joan L. Dillon

JLD/jnh
Enclosure

cc: Racetrac Petroleum, Inc.
1260523.1

EXHIBIT "B" TO OPPOSER'S
MOTION TO COMPEL
OPPOSITION NO. 117,623

ATLANTA AUGUSTA BRUSSELS CHARLOTTE LONDON MIAMI RALEIGH RESTON STOCKHOLM WASHINGTON WINSTON-SALEM

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

*In the matter of Application Serial No. 75/321,745, RACE WAY and DESIGN
Published in the Official Gazette of October 5, 1999, at TM 24.*

RACETRAC PETROLEUM, INC.)	
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Opposer,)	Opposition No. 117,623
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vs.)	Trademark: RACE WAY and
)	Design, Serial No. 75/321,745
ETW CORPORATION,)	
)	
Applicant.)	

**OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS TO APPLICANT**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and TBMP § 408, Opposer RaceTrac Petroleum, Inc. ("Opposer") requests that ETW Corporation ("Applicant") produce and permit Opposer to inspect and copy the documents and things designated below.

Opposer specifies that this production will occur at 9:00 am on December 19, 2001 at Kilpatrick Stockton LLP, 1100 Peachtree Street, Suite 2800, Atlanta, Georgia 30309-4530, or such other time and place mutually agreed upon by counsel for the parties. As to the manner of this production, Opposer specifies: (i) that the documents and things shall be organized for production to correspond with the categories of these requests or in the same order as they are kept or maintained in the ordinary course of business; (ii) that the documents and things produced shall be numbered; (iii) that Applicant's written response to

this request shall, by reference to such numbers, accurately show what documents and things are being produced in response thereto; and (iv) that the documents and things shall then and there be copied by Opposer to the extent such copying is desired.

DEFINITIONS

A. "Document" is used in its customary broad sense under the Federal Rules of Civil Procedure and includes every writing or record of every type and description, including but not limited to correspondence; memoranda; tapes; stenographic or handwritten notes; email; voice recordings; transcriptions (including of or in the form of summaries of telephone calls, recordings, "voice mail" or the like); computer or computerized data, records, files, discs, or tapes; artwork; advertising; literature; packaging; catalogs; drawings; sketches; graphs; photographs; pictures; films; books; pamphlets; studies; publications; reports; surveys; minutes; statistical computations; and other data compilations from which information can be obtained, translated, if necessary, by Applicant through detection devices into reasonably usable form; and every copy of every such writing or record where such copy is not an identical copy of an original or where such copy contains any commentary, marking, or notation whatsoever that does not appear on the original.

B. "Person" shall mean any individual, firm, proprietorship, partnership, corporation, association, governmental body, or any other organization or entity.

C. "Interrogatory" as used in these requests refers to the Interrogatories served concurrently upon Applicant.

D. The "Definitions" in the Interrogatories are incorporated by reference as if fully set forth here.

REQUESTS FOR PRODUCTION

The documents designated for production are the following:

1. All documents that evidence, refer, or relate to the selection or adoption of Applicant's Mark.
2. All documents that constitute, evidence, refer, or relate to any application to register Applicant's Mark by Applicant, or any communications between Applicant or its attorneys and the United States Patent and Trademark Office in connection with Applicant's Mark.
3. All documents that evidence, refer, or relate to any trademark search involving the terms "RACE" or "WAY" or the phrase "RACE WAY."
4. All documents that evidence, refer, or relate to any measures taken by Applicant to determine the availability of Applicant's Mark at any time, including any investigative or background materials on marks or entities reflected in any trademark search.
5. All documents that evidence, refer, or relate to the rationale for adoption of Applicant's Mark.
6. All documents that evidence, refer, or relate to any alternative names, phrases, logos, designs, or words considered by Applicant, whether or not adopted, in connection with the process that resulted in the adoption of Applicant's Mark.
7. All documents that evidence, refer, or relate to Applicant's first use of Applicant's Mark as a trademark or name in connection with any goods, services, or business activities of Applicant.
8. All documents that evidence, refer, or relate to Applicant's awareness of Opposer's Marks.

9. Documents sufficient to identify each product or service for which Applicant has used or intends to use Applicant's Mark.

10. Representative examples of all screenfaces, websites, advertising, promotional materials, packaging, catalogs, data sheets, instructional materials, or other printed or electronic materials, evidencing, relating to, or referring to use or promotion of Applicant's Mark.

11. Representative samples of each use of Applicant's Mark not produced in response to Request No. 10 above.

12. Documents sufficient to fully identify and describe the channels of trade through which Applicant distributes products or offers services or intends to distribute products or offer services under Applicant's Mark, including without limitation, documents sufficient to identify the sales agents, dealerships, distributors, or other outlets through which any products or services are or have been sold or provided since Applicant's adoption of Applicant's Mark or through which Applicant intends to sell products or services under Applicant's Mark.

13. Documents sufficient to fully identify and describe the geographic areas in which Applicant's products or services bearing Applicant's Mark have been or are intended to be provided, distributed, or offered for sale.

14. Documents sufficient to identify the categories of customers, end users, or suppliers that have purchased or received any products or services bearing Applicant's Mark.

15. All price lists or other documents that show the prices (wholesale, suggested retail, and any other price category used by Applicant) at which any products or services

bearing, incorporating, or identified by Applicant's Mark have been or are intended to be sold or offered for sale.

16. Documents sufficient to show Applicant's annual gross sales in dollars and units of each product or service bearing, incorporating, or identified by Applicant's Mark.

17. All documents that evidence, refer, or relate to any sale or marketing plans for products or services sold or proposed to be sold under Applicant's Mark.

18. All documents that evidence, refer, or relate to all consumer or market research performed by or for Applicant with respect to Opposer's Marks or Applicant's Mark, including but not limited to any public opinion poll, study, survey, market research, test marketing, or other analysis.

19. All documents that evidence, refer, or relate to Applicant's expenditures for each advertising or promotional document, medium, or activity used to advertise or promote products or services under Applicant's Mark.

20. All documents that evidence, refer, or relate to any other party's use of any mark containing the phrase "RACE WAY," or similar variants thereof.

21. All documents that evidence, refer, or relate to any instance of which Applicant has actual or hearsay knowledge, directly or indirectly, of any inquiry or communication reflecting or suggesting any confusion, connection, or association between Applicant, Applicant's goods and services, or Applicant's Mark and Opposer, Opposer's goods and services, or Opposer's Mark, or any actual or suggested association, mistake, or confusion by any Person with regard to any affiliation, association, or connection between the parties. For illustrative purposes only and without limiting the foregoing, such instances would include misdirected inquires, orders, cancellations or returns; misassumptions as to

source or origin; and comments, complaints, or expressions by any person indicating an assumption or belief as to affiliation or connection.

22. All documents that evidence, refer, or relate to the types of purchasers or expected purchasers of any products or services sold or provided or proposed to be sold or provided under Applicant's Mark in the United States, including without limitation, any research or studies related to such purchasers.

23. All documents that evidence, refer, or relate to the types of end users or expected end users of any products or services sold or provided or proposed to be sold or provided under Applicant's Mark in the United States, including without limitation, any research or studies related to such end users.

24. All documents that evidence, refer, or relate to any alleged qualities or advantages of Applicant's products or services sold under Applicant's Mark including representative examples of all advertising or promotional material containing such representations.

25. All documents that evidence, refer, or relate to all facts or circumstances supporting Applicant's denial of paragraph 9 of Opposer's Notice of Opposition that "Applicant's Goods are likely to be sold to and/or used by automotive filling station service providers, and because of the repute of Opposer's mark RACEWAY, the purchasing public is likely to mistakenly believe Applicant's Goods are associated with, sponsored by or emanate from Opposer."

26. All documents that evidence, refer, or relate to all facts or circumstances supporting Applicant's denial of paragraph 10 of Opposer's Notice of Opposition that "purchasers are likely to encounter Opposer's mark RACEWAY and Applicant's mark

RACE WAY under conditions that are likely to, because of the similarities between the marks and the strong public association of Opposer with automotive services, cause confusion or mistake as to their respective sources and lead those purchasing Applicant's Goods to mistakenly assume that they are sponsored by or emanate from Opposer."

27. All documents that evidence, refer, or relate to all facts or circumstances supporting Applicant's denial of paragraph 11 of Opposer's Notice of Opposition that "There is no material difference between Applicant's alleged mark and Opposer's mark."

28. All documents, other than those produced in response to any of the foregoing requests, upon which Applicant intends to rely in connection with this Opposition proceeding.

29. All documents that were identified or relied upon by Applicant or any person acting on Applicant's behalf in connection with responding to Opposer's First Set of Interrogatories to Applicant.

Respectfully submitted,

RACETRAC PETROLEUM

By: _____


Joan I. Dillon
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
(404) 815-6533

Attorneys for Opposer

Dated: November 19, 2001

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

In the matter of Application Serial No. 75/321,745, *RACE WAY and DESIGN*
Published in the Official Gazette of October 5, 1999, at TM 24.

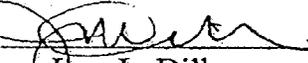
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)	
Applicant.)	

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing **OPPOSER'S FIRST SET OF RESQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS** on Applicant's counsel by first-class mail, postage pre-paid, addressed as follows:

Mr. Barbara A. Murphy
Adduci, Mastriani & Schaumberg, L.L.P.
1200 Seventeenth Street, N.W., Fifth Floor
Washington, D.C. 20036

Dated, this 14 November, 2001.

By: 
Joan L. Dillon
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
(404) 815-6533

Attorneys for Opposer

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

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Opposition No. 117,623
Trademark: RACE WAY and
Design, Serial No. 75/321,745

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a true and correct copy of the within and foregoing "OPPOSER'S MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND PRODUCTION OF DOCUMENTS, AND BRIEF IN SUPPORT THEREOF" upon counsel for Applicant ETW Corporation, by depositing a copy of same in the United States First Class Mail, in a properly addressed envelope with adequate postage affixed thereon, addressed as follows:

Ms. Barbara A. Murphy
Adduci, Mastriani & Schaumberg LLP
1200 "17th" Street, N.W., 5th Floor
Washington, D.C. 20036

Dated, this 16th day of January, 2003.

By: 
Joan L. Dillon
JOAN DILLON LAW, LLC
3520 Ashford Dunwoody Road
PMB 235
Atlanta, Georgia 30319

Attorneys for Opposer Racetrac Petroleum,
Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Ms. Barbara A. Murphy
Adduci, Mastriani & Schaumberg LLP
1200 "17th" Street, N.W., 5th Floor
Washington, D.C. 20036

Dated, this 16th day of January, 2003.

By: 
Joan L. Dillon
JOAN DILLON LAW, LLC
3520 Ashford Dunwoody Road
PMB 235
Atlanta, Georgia 30319

Attorneys for Opposer Racetrac Petroleum,
Inc.



JOAN DILLON LAW, LLC

March 13, 2003

3530 Ashford Dunwoody Road
PMB 235
Atlanta, Georgia 30319

Phone: 404-257-1708
Fax: 404-250-1708
joandillon@bellsouth.net

FAX

RECIPIENT / PHONE NUMBER	FAX NUMBER	COMPANY / CITY, STATE, COUNTRY
Andrew P. Baxley	703-308-9333	TTAB

Joan L. Dillon, Attorney

FROM

24

PAGES (WITH COVER)

Opposition No. 117,623

REFERENCE NUMBER

RaceTrac v. ETW

CLIENT/MATTER NUMBER

PLEASE CALL 404-257-1708 IF YOU HAVE DIFFICULTY WITH THIS TRANSMISSION.

CONFIDENTIALITY NOTE:

The information contained in this fax message is being transmitted to and is intended for the use of the individual named above. If the reader of this message is not the intended recipient, you are hereby advised that any dissemination, distribution or copy of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone and destroy this fax message.

COMMENTS: