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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



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

Opposer, RaceTrac Petroleum, Inc., herein opposes yet another requested extension of Applicant's testimony period, filed by Applicant on March 10, 2003. This extension, if granted, would be the tenth such extension granted, and all essentially on the same vague basis. One new twist added in this one is that of the weather in the D.C. Opposer remembers that D.C. was under snow for about a week in February. But, each of these extension requests, from the first, have been requested due to various "personal commitments and ongoing and unanticipated scheduling conflicts." One would expect, that in about a year's time counsel would find the time to attend to this one matter.

A Board Order dated December 5, 2002, noted that **as of that time**, Applicant had filed seven unconsented motions to extend its testimony, each alleging essentially the same vague and unsubstantiated bases as that described in paragraph one and ordered that "[A]pplicant is advised that no further extensions to its testimony period will be granted without Opposer's consent thereto or a *showing of extraordinary circumstances*" (emphasis

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added). The Board then extended the time for taking testimony, setting it to close on January 24, 2003.

In spite of the Board's obvious impatience, and expression of concern with its own administrative load, and with the Opposer's right to resolution, and its cautionary statement, Applicant nevertheless filed yet another unconsented Motion to Extend on January 10, 2003. Opposer filed an answer and opposition. The Board did not respond to either Applicant's Motion or Opposer's Opposition to it. Presumably Applicant has decided, unilaterally, that the Motion was granted. The Applicant filed another Opposed motion to extend time on February 10, and now, again on March 10.

As the Board correctly noted, Opposer is entitled to have this matter brought to a conclusion. The continued delays and the uncertainties created by Applicant, not to mention the added expenses incurred by Opposer in dealing with Applicant's repetitive motions, are simply unfair to Opposer. The Board should order that Applicant has forfeited its right to take testimony in this matter, or preferably, order Applicant to show cause why this Opposition should not be sustained.

Respectfully submitted,  
RACETRAC PETROLEUM, INC.

By: 

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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 March 14, 2003

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Signature

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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 THE TESTIMONY 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



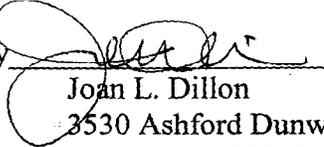
03-17-2003

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

This 14<sup>th</sup> day of March, 2003.

Respectfully submitted,  
JOAN DILLON LAW, LLC

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