

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Baxley

Mailed: April 9, 2003

Opposition No. 91/117,623

RACETRAC PETROLEUM, INC.

v.

ETW CORPORATION

Andrew P. Baxley, Interlocutory Attorney:

On March 21, 2003, the Board issued an order wherein it denied opposer's motion to compel and applicant's tenth and eleventh unconsented motions to extend its testimony period, but allowed applicant the eight days that remained in its testimony period at the time of the filing of the motion to compel in which to take testimony.

Subsequent to the issuance of that order, applicant's twelfth unconsented motion (filed March 10, 2003) to extend its testimony period became associated with the proceeding file. Opposer filed a brief in opposition thereto.

Applicant was advised in the Board's December 17, 2002 order that it would not be granted any further extensions of discovery without opposer's consent or a showing of extraordinary circumstances. It is noted that opposer's consent to its latest motion to extend is not of record. Further, the Board notes that the extreme snow conditions

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upon which applicant relies as a new basis for seeking an extension had occurred roughly three weeks prior to the filing that motion and that applicant's other reasons for seeking an extension, i.e., personal commitments and scheduling conflicts, have been used repeatedly throughout this proceeding. As such, the Board finds that applicant's reasons for seeking such extension fall short of a showing of extraordinary circumstances.

In view thereof, applicant's twelfth unconsented motion to extend its testimony period is hereby **denied**.

Remaining trial dates remain as last reset in the Board's March 21, 2003 order.