

ESTTA Tracking number: **ESTTA34230**

Filing date: **05/27/2005**

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

<b>Proceeding</b>	91120519
<b>Party</b>	Plaintiff EXXON MOBIL CORPORATION
<b>Correspondence Address</b>	STEPHEN P. MELEEN & LOUIS T. PIRKEY FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVENUE, SUITE 2400 AUSTIN, TX 78701
<b>Submission</b>	Opposer's Reply Brief in Support of Its Motion to Suspend Proceeding Pending Civil Action
<b>Filer's Name</b>	Stephen P. Meleen
<b>Filer's e-mail</b>	smeleen@fulbright.com, aotrademark@fulbright.com
<b>Signature</b>	/spm/
<b>Date</b>	05/27/2005
<b>Attachments</b>	DEXXON reply.pdf ( 3 pages ) Exhibit A.pdf ( 25 pages ) Exhibit B.pdf ( 2 pages )

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

EXXON MOBIL CORPORATION,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. 91120519
	§	
DATAWORX, R.V.	§	
	§	
Applicant.	§	

**OPPOSER’S REPLY BRIEF IN SUPPORT OF ITS  
MOTION TO SUSPEND PROCEEDING PENDING CIVIL ACTION**

In accordance with TBMP § 502.02(b), Opposer submits this reply brief to respond to the issues raised in Applicant’s Motion in Response to Opposer’s Motion to Suspend Proceeding Pending Civil Action (“Applicant’s Response”). Applicant’s Response does not argue that this proceeding should continue despite the pending civil action. Rather, Applicant’s Response merely questions whether a civil action is actually pending, based on the fact that the copy of the Complaint attached to Opposer’s motion did not bear a “Filed” stamp from the court.

Opposer hereby confirms that a civil action is pending. The Complaint attached to Opposer’s motion was filed on May 5, 2005 in the United States District Court for the Northern District of Texas, Dallas Division, and assigned Civil Action No. 3-05CV-0918M. A “Filed” stamped copy of the Complaint, with the Civil Action Number, is attached hereto as Exhibit A. Opposer’s motion to suspend was filed that same day, and Opposer’s undersigned counsel had not yet received the “Filed” stamped copy back from the court.

Opposer notes that the Complaint has been served on Applicant’s co-defendant in the case, Dexxon Digital Storage, Inc., which is located in the United States. A copy of the executed

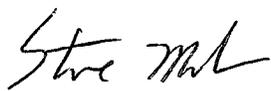
Summons showing such service is attached hereto as Exhibit B. Opposer is still in the process of effecting service on Applicant, who is located in the Netherlands.

Because there can be no serious dispute that the civil action is indeed pending, and because Applicant has not disputed that final disposition of the Civil Action “may have a bearing on this case,” this Opposition should be suspended pending final determination of the Civil Action. 37 C.F.R. § 2.117(a), TBMP 510.02(a).

Accordingly, Opposer respectfully requests that all further proceedings in Opposition No. 91120519 be suspended by the Board pending the outcome of Civil Action No. 3-05CV-0918M in the United States District Court for the Northern District of Texas, Dallas Division. Opposer reiterates its request that if and when this Opposition is removed from suspended status, or if this Request for Suspension is denied, that the Board reset all trial dates.

This motion is being filed electronically, and no fee is believed to be due in connection with the filing of this document. However, should any fee under 37 C.F.R. § 2.6 be deemed necessary for any reason relating to this document, the Commissioner for Trademarks is hereby authorized to deduct said fee from Fulbright & Jaworski Account No.: 50-1212/EXCO:078/SPM.

Respectfully submitted,

 5/27/05

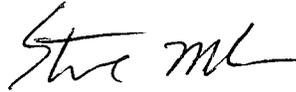
Louis T. Pirkey  
William G. Barber  
Stephen P. Meleen  
FULBRIGHT & JAWORSKI  
600 Congress Ave., Suite 2400  
Austin, Texas 78701  
Tel: (512) 474-5201  
Fax: (512) 536-4598

ATTORNEYS FOR OPPOSER

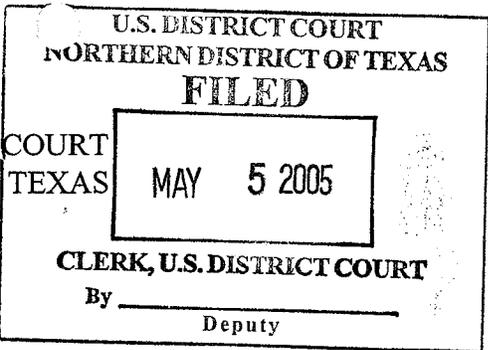
**CERTIFICATE OF SERVICE**

I certify that on May 27, 2005, I caused to be served the foregoing MOTION TO SUSPEND PROCEEDING PENDING CIVIL ACTION by first class mail, postage pre-paid, to the following attorney for Applicant:

Jess M. Collen  
COLLEN IP Intellectual Property Law, P.C.  
80 South Highland Avenue  
Ossining, New York 10562



---



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

EXXON MOBIL CORPORATION,  
  
Plaintiff,

v.

DEXXON DIGITAL STORAGE, INC. and  
DATAWORX, R.V.  
  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**3-05 CV - 0918 M**  
CIVIL ACTION NO. \_\_\_\_\_

JURY TRIAL DEMANDED

**EXXONMOBIL'S COMPLAINT  
FOR TRADEMARK INFRINGEMENT, DILUTION,  
UNFAIR COMPETITION, AND REFUSAL OF REGISTRATION**

For its complaint, Exxon Mobil Corporation, appearing through the undersigned counsel, alleges as follows based on present knowledge, information and belief:

**PARTIES**

1. Exxon Mobil Corporation ("ExxonMobil") is a New Jersey corporation having its principal place of business at 5959 Las Colinas Boulevard, Irving, Texas 75039.
2. Defendant Dexason Digital Storage, Inc. is a Delaware corporation with a business address of 7611 Green Meadows Drive, Lewis Center, Ohio 43035.
3. Defendant Dataworx R.V. is a Netherlands corporation with a business address of Broekveldseleen 7a, 2411 NL Bodegraven, Netherlands.
4. On information and belief, Defendants Dexason Digital Storage, Inc. and Dataworx R.V. share the same ownership and control, and operate in cooperation with each other. Except

where identified individually, defendants are hereinafter collectively referred to as the “Dexxon Defendants.”

### **NATURE OF ACTION AND JURISDICTION**

5. This is an action for trademark infringement, dilution, and unfair competition under the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.* (“Lanham Act”), and the laws of the State of Texas and other states.

6. This Court has jurisdiction over this action under Section 39 of the Lanham Act, 15 U.S.C. § 1121, and Title 28 of the United States Code, §§ 1331 and 1338, and supplemental jurisdiction over ExxonMobil’s state law claims under 28 U.S.C. § 1367(a). The matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states and a foreign state, so this Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

#### **A. ExxonMobil and Its EXXON Marks**

7. Since at least as early as 1967, ExxonMobil has continuously used the mark EXXON in commerce in connection with a wide variety of products and services, including the sale and promotion of gasoline, motor oil, and other petroleum products, chemical products, and various other products and services.

8. EXXON stations are among the most widespread and recognizable gasoline stations in the United States. There are thousands of EXXON branded retail gasoline stations in the United States with billions of dollars in annual sales. Over the years, ExxonMobil has invested great effort and resources promoting its EXXON stations and spent many millions of dollars advertising them.

9. Since at least 1971, ExxonMobil has presented its mark EXXON in a stylized format that includes a distinctive Interlocking X Device (“IXD”), such as in the famous EXXON Emblem shown immediately below.



10. ExxonMobil has also for many years used the IXD as mark standing alone, as shown below, to promote its sale of motor fuels and other products and services.



11. In 1999 Exxon Corporation, in connection with its acquisition of Mobil Corporation and its subsidiaries, adopted the corporate and trade name Exxon Mobil Corporation and the mark EXXONMOBIL, both of which incorporate the mark EXXON. ExxonMobil has come to sell a number of its products, including its various chemical products, in commerce under the mark EXXONMOBIL, and uses that mark in both plain text and in a stylized format that incorporates the IXD, as shown immediately below.

**ExxonMobil**

12. ExxonMobil’s marks EXXON, EXXONMOBIL, and the IXD (hereinafter collectively identified as the “EXXON Marks”) constitute a family of marks, and relevant consumers recognize and rely upon ExxonMobil’s family of EXXON Marks as an indicator of origin.

13. In addition to its extensive common-law rights, ExxonMobil owns numerous federal trademark registrations for its EXXON Marks, including U.S. Reg. No. 902,044 for the mark EXXON, U.S. Reg. No. 968,512 for the mark EXXON & Design (the EXXON Emblem), U.S. Reg. No. No. 2,305,494 for its mark IXD, U.S. Reg. No. 2,791,743 for the mark EXXONMOBIL (Stylized), and U.S. Reg. No. 1,970,069 for the mark EXXON CHEMICAL & Design. Each of these registrations is valid and subsisting, and some are now incontestable. Copies of pages from the U.S. Patent & Trademark Office's Trademark Electronic Service System (TESS) for these registrations are attached hereto as Exhibit A.

14. ExxonMobil's EXXON Marks are inherently distinctive, serving to identify and indicate the source of ExxonMobil's products and services to the consuming public, and to distinguish ExxonMobil's products and services from those of others.

15. Additionally, as a result of ExxonMobil's extensive use and promotion of its EXXON Marks, they have become distinctive to designate ExxonMobil, and are well-known and widely recognized by consumers in Texas and throughout the United States. ExxonMobil has invested millions of dollars in advertising and promoting its EXXON Marks and the goods and services sold under those marks, and has developed great and valuable goodwill in its EXXON Marks.

16. The EXXON Marks are famous and consumers have come to associate those marks uniquely with ExxonMobil and its goods and services.

17. ExxonMobil has developed and now owns strong common-law rights in its EXXON Marks in Texas and throughout the United States.

**B. Defendants' Activities**

18. Dataworx R.V. filed Application Serial No. 75/511,805 in the United States Patent and Trademark Office to register the mark DEXXON for the following goods in International Class 9: "computers and computer peripherals; optical appliances and instruments, namely, optical disk readers; computer storage devices and media, namely, blank optical disks; blank audio disks; blank audio cassette tapes; blank re-writeable CD-ROM disks; head cleaning cartridges for computer storage devices and data storage equipment; blank computer hard disks; removable disks and tape backup drives for computers; blank digital linear tape cartridges; blank 4 mm and 8 mm computer storage tapes; blank removable three and half inch and five and quarter inch floppy disks." In doing so, Dataworx R.V. declared under oath its intent to use the mark DEXXON in connection with such goods in United States commerce.

19. In a transaction that was subject to the jurisdiction of the Bankruptcy Court for the Northern District of Texas and was approved by that court, Defendant DEXXON Digital Storage, Inc. acquired substantially all of the assets of Digital Storage, Inc.

20. Since the acquisition of assets via the bankruptcy court in this district, the DEXXON Defendants have used the mark DEXXON in United States commerce. Specifically, the DEXXON Defendants have sold and are selling products and services under the mark DEXXON in commerce in this district and throughout the United States.

21. The DEXXON Defendants operate Internet websites at [www.dexxon.com](http://www.dexxon.com) and [www.dititalstorage.com](http://www.dititalstorage.com). The DEXXON Defendants use the mark DEXXON on both of these websites.

22. The Dexxon Defendants use the mark DEXXON in a design format in which the “XX” portion of the mark is presented in an interlocking manner similar to ExxonMobil’s famous mark IXD, as shown immediately below:



23. The Dexxon Defendants also use a standalone interlocking X design mark in connection with the sale of their goods and services.

24. ExxonMobil has priority based on its use and registration of its EXXON Marks in the United States for many years prior to the Dexxon Defendants’ use or application to register the mark DEXXON.

25. The Dexxon Defendants’ use of the mark DEXXON began after ExxonMobil’s EXXON Marks became famous.

**C. Effect of Defendants’ Activities on ExxonMobil and the Consuming Public**

26. The Dexxon Defendants’ mark DEXXON is confusingly similar to ExxonMobil’s EXXON Marks. The mark DEXXON is virtually identical to and incorporates entirely ExxonMobil’s mark EXXON.

27. ExxonMobil’s EXXON Marks are of sufficient fame and reputation among consumers such that when the mark DEXXON is used for the Dexxon Defendants’ products and services, consumers would presume a connection with ExxonMobil.

28. The D Exxon Defendants' unauthorized use of the mark DEXXON is likely to cause confusion, to cause mistake, and to deceive customers and potential customers of the parties as to some affiliation, connection or association of the D Exxon Defendants and their products or services with ExxonMobil, or as to the origin, sponsorship, or approval of the D Exxon Defendants' products or services by ExxonMobil.

29. The D Exxon Defendants' unauthorized use of the mark DEXXON falsely indicates to the purchasing public that the D Exxon Defendants, their business, and their products or services originate with ExxonMobil, or are affiliated, connected, or associated with ExxonMobil, or are sponsored, endorsed, or approved by ExxonMobil, or are in some manner related to ExxonMobil or its goods or services.

30. The D Exxon Defendants' mark DEXXON, when used in connection with the D Exxon Defendants' products and services, causes and is likely to cause dilution of ExxonMobil's famous and distinctive EXXON Marks, individually and collectively.

31. The D Exxon Defendants' unauthorized use of the confusingly similar mark DEXXON places the valuable reputation and goodwill of ExxonMobil in the hands of the D Exxon Defendants, over whom ExxonMobil has no control.

32. As a result of the D Exxon Defendants' unauthorized use of the mark DEXXON, the D Exxon Defendants are being unjustly enriched at ExxonMobil's expense.

33. ExxonMobil has informed the D Exxon Defendants of its objections to the D Exxon Defendants' use and attempted registration of the mark DEXXON, and timely filed an opposition (Opposition No. 91-120,519) in the U. S. Patent & Trademark Office against Dataworx R.V.'s Application Serial No. 75/511,805.

34. The D Exxon Defendants' use of the mark DEXXON is without the permission or authority of ExxonMobil.

35. Unless these infringing and diluting acts by the D Exxon Defendants are restrained by this Court, they will cause irreparable injury to ExxonMobil and to the public, for which there is no adequate remedy at law.

**D. Willful Nature of Defendants' Infringement, Dilution, and Unfair Competition**

36. The D Exxon Defendants' acts of infringement, dilution, and unfair competition complained of herein have been malicious, fraudulent, deliberate, willful, intentional, and in bad faith, with full knowledge and conscious disregard of ExxonMobil's rights. In view of the egregious nature of the D Exxon Defendants' actions, this is an exceptional case within the meaning of Section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a).

**COUNT 1: DILUTION UNDER TEXAS LAW**

37. ExxonMobil repeats the above allegations as if fully set forth herein.

38. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Texas anti-dilution statute, Tex. Bus. & Com. Code § 16.29.

**COUNT 2: TRADEMARK INFRINGEMENT  
UNDER THE COMMON LAW OF TEXAS**

39. ExxonMobil repeats the above allegations as if fully set forth herein.

40. The acts of the D Exxon Defendants complained of herein constitute trademark infringement in violation of the common law of Texas

**COUNT 3: UNFAIR COMPETITION UNDER THE  
COMMON LAW OF TEXAS**

41. ExxonMobil repeats the above allegations as if fully set forth herein.

42. The acts of the Dexxon Defendants complained of herein constitute unfair competition in violation of the common law of Texas.

**COUNT 4: FEDERAL TRADEMARK INFRINGEMENT**

43. ExxonMobil repeats the above allegations as if fully set forth herein.

44. The acts of the Dexxon Defendants complained of herein constitute infringement of ExxonMobil's registered marks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

**COUNT 5: FEDERAL UNFAIR COMPETITION**

45. ExxonMobil repeats the above allegations as if fully set forth herein.

46. The acts of the Dexxon Defendants complained of herein constitute trademark infringement and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

**COUNT 6: FEDERAL DILUTION**

47. ExxonMobil repeats the above allegations as if fully set forth herein.

48. The acts of the Dexxon Defendants complained of herein constitute dilution of ExxonMobil's famous marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

49. The D Exxon Defendants willfully intended to trade on ExxonMobil's reputation and to cause such dilution.

**COUNT 7: DILUTION UNDER THE LAWS OF OTHER STATES**

50. ExxonMobil repeats the above allegations as if fully set forth herein.

51. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Alabama anti-dilution statute, Ala. Code § 8-12-18.

52. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the California anti-dilution statute, Cal. Bus. & Prof. Code § 14330.

53. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Delaware anti-dilution statute, Del. Code Ann. tit. 6, § 3313.

54. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Florida anti-dilution statute, Fla. Stat. § 495.151.

55. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Georgia anti-dilution statute, O.C.G.A. § 10-1-451(b).

56. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Louisiana anti-dilution statute, La. Rev. Stat. Ann. 51:223.1.

57. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Maine anti-dilution statute, 10 M.R.S.A. § 1530.

58. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Massachusetts anti-dilution statute, MA ST 110B, § 12.

59. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the New Hampshire anti-dilution statute, RSA 350-A:12.

60. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the New York anti-dilution statute, New York General Business Law § 360-1.

61. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the common law of Ohio.

62. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Oregon anti-dilution statute, ORS 647.107.

63. The acts of the D Exxon Defendants complained of herein constitute dilution of ExxonMobil's EXXON Marks in violation of the Rhode Island anti-dilution statute, R.I. Gen. Laws § 6-2-12.

**COUNT 8: REFUSAL OF APPLICATION FOR REGISTRATION**

64. ExxonMobil repeats the above allegations as if fully set forth herein.

65. This Court has the power under 15 U.S.C. § 1119 to determine Dataworx R.V.'s right to registration of the mark DEXXON.

66. Dataworx R.V.'s mark DEXXON, the subject of Application Serial No. 75/511,805, so resembles ExxonMobil's EXXON Marks as to be likely to cause confusion, or to cause mistake, or to deceive, and/or to cause dilution of its famous EXXON Marks, individually and collectively. Registration should therefore be refused under 15 U.S.C. § 1052.

WHEREFORE, ExxonMobil prays that:

- a) The DEXXON Defendants, their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with them, be permanently enjoined from using the mark DEXXON, any mark featuring an interlocking X design, and any other mark that is confusingly similar to or diluting of any of ExxonMobil's EXXON Marks;
- b) The DEXXON Defendants, their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with them, be required to modify all products, packaging, and promotional material, including all Internet and other electronic communications or representations, to eliminate the mark DEXXON and any interlocking X design mark;
- (c) The DEXXON Defendants, their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with them, be required to deliver to the Court for destruction, or show proof of destruction of, any and all products, labels, signs, prints, packages, wrappers, receptacles, and

advertisements, and any other materials in the D Exxon Defendants' possession or control that use mark DEXXON or any interlocking X design mark in any manner whatsoever;

- d) The D Exxon Defendants be ordered to file with this Court and to serve upon ExxonMobil, within 30 days after the entry and service on the D Exxon Defendants of an injunction, a report in writing and under oath setting forth in detail the manner and form in which the D Exxon Defendants have complied with the injunction;
- f) ExxonMobil recover all damages it sustains as a result of the D Exxon Defendants' infringement, dilution, and unfair competition, and that said damages be trebled;
- g) An accounting be directed to determine the D Exxon Defendants' profits resulting from their activities complained of herein, and that such profits be paid over to ExxonMobil, increased as the Court finds to be just under the circumstances of this case;
- h) The Court enter an Order pursuant to 15 U.S.C. § 1119, certified to the United States Patent and Trademark Office, directing that U.S. Application Serial No. 75/511,805 be refused with prejudice;
- i) ExxonMobil recover its reasonable attorney fees;
- j) ExxonMobil recover its costs of this action and prejudgment and post-judgment interest; and
- k) ExxonMobil recover such other relief as the Court may deem appropriate.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), ExxonMobil demands a trial by jury on all issues triable of right by a jury.

Date: May 5, 2005

Respectfully submitted,

By: Michael J. Fogarty, III  
Louis T. Pirkey  
Texas Bar No. 16033000  
William G. Barber  
Texas Bar No. 01713050  
Stephen P. Meleen  
Texas Bar No. 00795776  
FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Ave., Suite 2400  
Austin, Texas 78701  
Tel: (512) 474-5201  
Fax: (512) 536-4598

OF COUNSEL:

William R. Cohrs  
Texas Bar No. 04514300  
Exxon Mobil Corporation  
5959 Las Colinas Boulevard  
Irving, Texas 75039  
Telephone: (972) 444-1418  
Facsimile: (972) 444-1412

Michael J. Fogarty, III  
Texas Bar No. 24002097  
FULBRIGHT & JAWORSKI L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201  
Tel: (214) 855-8000  
Fax: (214) 855-8200

ATTORNEYS FOR PLAINTIFF EXXON MOBIL CORPORATION

# Exhibit A



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

## Trademark Electronic Search System(Tess)

TESS was last updated on Thu May 5 06:35:04 EDT 2005

[TO HOME](#)
[TRADEMARK](#)
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSER DICT](#)
[BOTTOM](#)
[HELP](#)

Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

[Check Status](#) (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

#### Typed Drawing

**Word Mark** EXXON  
**Goods and Services** IC 004. US 015. G & S: PETROLEUM AND PETROLEUM PRODUCTS-NAMELY, INDUSTRIAL OILS AND GREASES, PETROLEUM AND MINERAL WAXES, LUBRICANTS, HYDROCARBON FUELS, PETROLEUM ILLUMINANTS AND CRUDE OIL. FIRST USE: 19671205. FIRST USE IN COMMERCE: 19671205  
**Typed Drawing** (1) TYPED DRAWING  
**Serial Number** 72296761  
**Filing Date** April 29, 1968  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Registration Number** 0902044  
**Registration Date** November 10, 1970  
**Owner** (REGISTRANT) STANDARD OIL COMPANY CORPORATION NEW JERSEY 117 MAIN ST. FLEMINGTON NEW JERSEY 08822  
 (LAST LISTED OWNER) EXXON MOBIL CORPORATION CORPORATION BY CHANGE OF NAME NEW JERSEY 5959 LAS COLINAS BOULEVARD IRVING TEXAS 750392298  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010726.  
**Renewal** 2ND RENEWAL 20010726  
**Live/Dead Indicator** LIVE

[TO HOME](#)
[TRADEMARK](#)
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSER DICT](#)
[TOP](#)
[HELP](#)



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

## Trademark Electronic Search System(Tess)

TESS was last updated on Thu May 5 06:35:04 EDT 2005

[TO HOME](#)
[TRADE MARK](#)
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[Browser Help](#)
[BOTTOM](#)
[HELP](#)

Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

**Check Status**

*(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*



<b>Trademark</b>	EXXON
<b>Goods and Services</b>	IC 004. US 015. G & S: PETROLEUM AND PETROLEUM PRODUCTS-NAMELY, INDUSTRIAL OILS AND GREASES, PETROLEUM AND [ MINERAL WAXES ], LUBRICANTS, HYDROCARBON FUELS, PETROLEUM ILLUMINANTS AND [CRUDE OIL ]. FIRST USE: 19711004. FIRST USE IN COMMERCE: 19711004
<b>Trademark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	261112 261121
<b>Serial Number</b>	72407854
<b>Filing Date</b>	November 16, 1971
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Registration Number</b>	0968512
<b>Registration Date</b>	September 18, 1973
<b>Owner</b>	(REGISTRANT) EXXON CORPORATION CORPORATION NEW JERSEY 5959 Las Colinas Boulevard Irving TEXAS 750392298  (LAST LISTED OWNER) EXXON MOBIL CORPORATION CORPORATION NEW JERSEY 5959 LAS COLINAS BOULEVARD IRVING TEXAS 750392298
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	ROBERT D. RIPPE, JR.
<b>Prior</b>	0902044;AND OTHERS

**Registrations**

**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20040221.  
**Serial** 2ND RENEWAL 20040221  
**Live/Dead Indicator** LIVE



[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [BUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

[Trademarks](#) > Trademark Electronic Search System (TESS)

## Trademark Electronic Search System(Tess)

TESS was last updated on Thu May 5 06:35:04 EDT 2005

[HOME](#) [TRADE MARK](#) [TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DISK](#) [BOTTOM](#) [HELP](#)

Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

**Check Status** (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)



<b>Form Mark</b>	XX
<b>Goods and Services</b>	IC 004. US 001 006 015. G & S: GASOLINE. FIRST USE: 19870619. FIRST USE IN COMMERCE: 19870619
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	75474257
<b>Filing Date</b>	April 24, 1998
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 12, 1999
<b>Registration Number</b>	<b>2305494</b>
<b>Registration Date</b>	January 4, 2000
<b>Owner</b>	(REGISTRANT) Exxon Corporation CORPORATION NEW JERSEY 5959 Las Colinas Boulevard Irving TEXAS 750392298
	(LAST LISTED OWNER) Exxon Mobil Corporation CORPORATION NEW JERSEY 5959 Las Colinas Boulevard Irving TEXAS 750392298
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Prior Registrations</b>	1384919;1412809;2149419
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

[HOME](#) [TRADE MARK](#) [TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DISK](#) [TOP](#) [HELP](#)



Trademarks > Trademark Electronic Search System (TESS)

## Trademark Electronic Search System(Tess)

TESS was last updated on Thu May 5 06:35:04 EDT 2005

[TO HOME](#)
[TRADEMARK](#)
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DATA](#)
[BOTTOM](#)
[HELP](#)

Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

**Check Status** (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

# ExxonMobil

**Word Mark**  
**Goods and Services**

EXXONMOBIL

IC 017. US 001 005 012 013 035 050. G & S: polyolefin films made from polyethylene and polypropylene polymer or derivatives for use in the packaging industry; polyolefin in bars, blocks pellets, rods, sheets and tubes for use in the manufacture of packages and labels; synthetic rubber and rubber substitutes for use in the industrial arts, for use in the manufacture of tires, tubes, vehicle body sealing; belts, hoses, seals, glass run channels, mechanical goods, electrical cable jacketing, roof sheeting, garden hoses, materials for sound deadening, adhesives, bumpers, dashboard parts, computer housing, electronic components, ski boots, was blends, chewing gum base and in engineering thermoplastics. FIRST USE: 20000630. FIRST USE IN COMMERCE: 20000630

IC 016. US 002 005 022 023 029 037 038 050. G & S: periodical publications, namely, reports, booklets, brochures, pamphlets and newsletters and all kinds of printed matters concerning items of interest about products, services, events and personnel of applicant and about the chemical and petroleum industry; company stationery, business cards and posters. FIRST USE: 19991200. FIRST USE IN COMMERCE: 19991200

IC 004. US 001 006 015. G & S: aviation fuels, lubricating oils for marine, applications. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000

IC 001. US 001 005 006 010 026 046. G & S: olefins, aromatic hydrocarbons, and solvents for use with paints, lacquers and similar products, for manufacture of inks and toners, for use in non-impact printing applications and for use in the industrial arts; solvents used as a component in adhesives, pharmaceuticals, fragrances, metal working fluids, pesticides, sealants, lubricants; polymers for use in the manufacture of adhesives and in the plastic industry; hydrocarbon polymers, namely resins, plastomers and elastomers in solid, semi-solid, liquid and powdered form for general use in the industrial arts in lieu of or in combination with natural or synthetic rubber and rubber-like materials. FIRST USE: 20000630. FIRST USE IN COMMERCE: 20000630

**Mark Drawing**  
**Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 75983349

**Filing Date** November 29, 1999

**Current Filing Basis** 1A

Original Filing Basis 1B

Published for Opposition October 1, 2002

Registration Number 2791743

Registration Date December 9, 2003

Owner (REGISTRANT) Exxon Corporation CORPORATION NEW JERSEY 5959 Las Colinas Boulevard Irving TEXAS 750392298

Attorney of Record Melody L. Schottle

Prior Registrations 0337002;0363312;0884420;0902044;AND OTHERS

Type of Mark TRADEMARK  
Register PRINCIPAL

Live/Dead Indicator LIVE

[GO HOME](#) [TRADEMARK](#) [TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DATA](#) [TOP](#) [HELP](#)

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

## Trademark Electronic Search System(Tess)

TESS was last updated on Thu May 5 06:35:04 EDT 2005

[GO HOME](#)
[TRADEMARK](#)
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DATA](#)
[BOTTOM](#)
[HELP](#)

Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

**Check Status** (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)



<b>International Class</b>	EXXON CHEMICAL
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: computer program for calculating and comparing compound costs for polyvinyl chloride formulations. FIRST USE: 19891231. FIRST USE IN COMMERCE: 19891231
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	261713
<b>Serial Number</b>	74683280
<b>Filing Date</b>	May 31, 1995
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	January 30, 1996
<b>Registration Number</b>	1970069
<b>Registration Date</b>	April 23, 1996
<b>Owner</b>	(REGISTRANT) EXXON CORPORATION CORPORATION NEW JERSEY 225 E. John W. Carpenter Freeway Irving TEXAS 750622298  (LAST LISTED OWNER) EXXON MOBIL CORPORATION CORPORATION BY CHANGE OF NAME NEW JERSEY 5959 LAS COLINAS BLD IRVING TEXAS 75039-229
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	MELODY L. SCHOTTLE
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHEMICAL" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK  
Register PRINCIPAL  
Fidavit Text SECT 15. SECT 8 (6-YR).  
Live/Dead LIVE  
Status LIVE

---

[HOME](#) [TRADEMARK](#) [TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [Browser Help](#) [TOP](#) [HELP](#)

---

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

# CIVIL COVER SHEET

This JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
Exxon Mobil Corporation

**DEFENDANTS**  
Dexxon Digital Storage, Inc. and DataWorx, R.V.  
**3-05 CV-0918M**

**(b) County of Residence of First Listed Plaintiff** \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

**County of Residence of First Listed Defendant** \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
Fulbright & Jaworski, LLP, 2200 Ross Ave., Ste. 2800, Dallas, TX 752  
Dallas, TX 75201 214-855-8000

RECEIVED IN OFFICE BOX  
MAY 5 2005  
Attorneys (as shown)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

**CITIZENSHIP** (For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

**VI. CAUSE OF ACTION** Brief description of cause: Trademark Infringement, Dilution, Unfair Competition under 15 USC 1051 et seq. and the laws of the State of Texas

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: May 5, 2005

SIGNATURE OF ATTORNEY OF RECORD: Michael J. Fogarty, III

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**I. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

Northern

District of

Texas

EXXON MOBIL CORPORATION

SUMMONS IN A CIVIL CASE

V.

DEXXON DIGITAL STORAGE, INC., ET AL.

CASE NUMBER:

3-05 CV - 09 18 M

TO: (Name and address of Defendant)

Dexxon Digital Storage, Inc., by and through its Registered Agent, David Burke 7611 Green Meadows Dr. Lewis Center, OH 43035

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Louis T. Pirkey Fulbright & Jaworski, LLP 600 Congress Ave., Suite 2400 Austin, TX 78701

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK OF COURT

MAY - 5 2005

CLERK

DATE

(By) DEPUTY CLERK [Signature]

Case Number 3-05CV-0918M		<b>RETURN OF SERVICE</b> Dexxon Digital Storage, Inc.	
Service of the Summons and complaint was made by me <sup>(1)</sup>		DATE <u>5-10-05, 12:27p.m.</u> by and through its Registered Agent, David Burke	
NAME OF SERVER (PRINT) Rev. Anthony Hodge		TITLE Process Server	
<i>Check one box below to indicate appropriate method of service</i>			
<input type="checkbox"/> Served personally upon the defendant. Place where served: <u>7611 Green Meadows Drive, Lewis Center, Ohio, 43035</u>			
<input checked="" type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <u>Alison Dutro, Receptionist</u>			
<input type="checkbox"/> Returned unexecuted: <u>N/A</u>			
<input type="checkbox"/> Other (specify): <u>N/A</u>			
<b>STATEMENT OF SERVICE FEES</b>			
TRAVEL	SERVICES	TOTAL	
<b>DECLARATION OF SERVER</b>			
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.			
Executed on <u>May 10, 2005</u>		<u>Rev. Anthony Hodge</u> Signature of Server Rev. Anthony Hodge	
Date		<u>1695 Franklin Avenue, Columbus, Ohio, 43205</u> Address of Server	

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.