

1 Exhibits



03-03-2003

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #30

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

9	PIONEER KABUSHIKI KAISHA dba	)	Opposition No.:	125,458
10	PIONEER CORPORATION,	)	Mark:	SUPERSCAN ELITE
11		)	Serial No.:	76/208230
12	Opposer,	)	Published:	March 19, 2002
13	vs.	)	1.	NOTICE OF MOTION AND MOTION
14		)		TO AMEND THE NOTICE OF
15	NISSEI SANGYO AMERICA, LTD.	)	2.	MEMORANDUM OF POINTS AND
16	Applicant.	)	3.	DECLARATION OF ROBERT JAMES
17		)		SKOUSEN;
18		)	4.	CERTIFICATE OF SERVICE
19)		
20		)		[Fed. R. Civ. P. 15(a)]

21
22
23 Assistance Commissioner For Trademarks
24 Box TTAB-No Fee
25 2900 Crystal Drive
26 Arlington, Virginia 22202-3513
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TRADEMARK TRIAL AND
APPEAL BOARD
03 MAR 13 AM 9:30

1 NOTICE OF MOTION AND MOTION TO AMEND THE NOTICE OF OPPOSITION

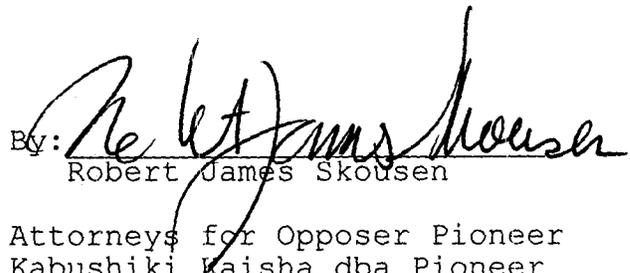
2 PLEASE TAKE NOTICE THAT pursuant to Federal Rule of Civil
3 Procedure 15 and Title 37 of the Code of Federal Regulations
4 Section 2.107, Opposer Pioneer Kabushiki Kaisha dba Pioneer
5 Corporation ("Pioneer"), hereby moves the Trademark Trial and
6 Appeal Board for an order granting this motion to amend its Notice
7 of Opposition to include the following new allegations relating to
8 (1) the Applicant's failure to have a bona fide intention to use
9 Mark, (2) the abandonment of Applicant's Prior "Superscan Elite"
10 Mark, which the Applicant relies on in filing its Application, and
11 (3) Dilution of Pioneer's famous "Elite" mark. A true and
12 correct copy of the proposed Amended Opposition is attached as
13 Exhibit "A" to the Skousen Declaration.

14 This motion is brought based upon the discovery of new facts
15 during the month of January 2003 as result of discovery and
16 investigation by Pioneer. In addition, the facts giving rise to
17 these claims did not become available to Pioneer until Pioneer was
18 able to conduct a third party deposition on January 31, 2003,
19 which deposition Applicant previously postponed. Moreover,
20 Pioneer has been diligent in seeking to obtain the stipulation of
21 Applicant to this Amendment, which Applicant has refused. This
22 motion is further based on the Trademark Trial and Appeal Board's
23 rule of liberal amendment of pleadings.

24 This motion is based upon this Notice of Motion and Motion,
25 the accompanying Memorandum of Points and Authorities, Declaration
26 of Robert James Skousen, all pleadings and papers on file in this
27 action, and upon such other matters as may be presented to the
28 Board.

1 Dated: February 26, 2003

2 Skousen & Skousen
3 A Professional Corporation

4
5 By: 
6 Robert James Skousen

7 Attorneys for Opposer Pioneer
8 Kabushiki Kaisha dba Pioneer
9 Corporation

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1 MOTION TO AMEND THE NOTICE OF OPPOSITION

2 I.

3 PRELIMINARY STATEMENT

4 Opposer Pioneer Kabushiki Kaisha dba Pioneer Corporation
5 ("Pioneer" or "Opposer") brings this motion to amend the Notice of
6 Opposition in the above-captioned matter now pending before the
7 Trademark Trial and Appeal Board ("TTAB") of the United States
8 Patent and Trademark Office ("PTO") as Opposition Number 125,458
9 regarding the following mark in International Class 009: SUPERSCAN
10 ELITE.

11 Throughout this proceeding Applicant has obstructed
12 discovery. Indeed, in September 2002, Applicant originally
13 claimed that it had no documents whatsoever that were responsive
14 to any of Pioneer's Request to Produce Documents. Skousen Decl. ¶
15 3. Incredibly, on January 20, 2003, the Applicant's lawyer
16 informed Pioneer's counsel that Applicant had located **400** boxes of
17 documents. Skousen Decl. Exh. B. This refusal to produce
18 documents is already the subject of a motion to compel that has
19 been filed with the Board.

20 Moreover, Pioneer attempted to take depositions in October
21 and December 2002. In October 2002, Applicant failed to appear
22 for its deposition causing Pioneer's counsel to travel to Chicago
23 for a deposition that never took place. Next, Pioneer scheduled a
24 deposition of a third party in December, but Applicant refused to
25 take that deposition when scheduled, suggesting that taking such
26 depositions in January would be more appropriate because of the
27 possibility of settling this matter. As a result, the first
28 deposition taken in this proceeding occurred on January 31, 2003.

1 Skousen Decl. ¶ 4.

2 As result of taking this deposition and other investigation,
3 Pioneer has uncovered additional facts that support the following
4 additional claims against Applicant Nissei Sangyo America nka
5 Hitachi High Technologies America, Inc. ("Applicant" or "HHTA"):

- 6 1. That Applicant does not have a bona fide intention to
7 use the mark, thus violating section 1(b) of the Lanham
8 Act;
- 9 2. That Applicant's reliance on its prior mark Superscan
10 Elite for computer monitors is misplaced because this
11 mark has been abandoned by Applicant; and
- 12 3. That Applicant intends to use the mark on an inferior
13 line of products and will consequently dilute Pioneer's
14 famous "Elite" mark.

15 The proposed Amended Notice Of Opposition is attached to the
16 Skousen Declaration as Exhibit "A." In preparing this amendment
17 for submission to the Board, Pioneer requested that Applicant
18 stipulate to this motion, which stipulation was refused by
19 Applicant. Pioneer also offered to extend the discovery deadline
20 to allow Applicant sufficient time to conduct discovery relative
21 to these new allegations. In light of these facts, the liberal
22 rule of amendment of pleadings, and considerable TTAB case law on
23 this issue, the Board is respectfully urged to grant this motion
24 and deem the proposed Amended Notice of Opposition filed and
25 served.

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1 II.

2 BACKGROUND

3 **A. PIONEER'S INTELLECTUAL PROPERTY RIGHTS**

4 Since 1960, when Pioneer began its presence in consumer
5 electronics, Pioneer has continually strengthened its intellectual
6 property rights. In the 1990s, Pioneer became dominant in
7 projection televisions and plasma displays - - including those
8 bearing the well recognized and famous "Elite" mark. Moreover, as
9 set forth below, Pioneer's "Elite" Mark predates the Applicant's
10 mark, and Pioneer's "Elite" mark is vastly stronger than
11 Applicant's mark, which appears to have been abandoned.

12 **1. Pioneer's "Elite" Trademark.**

13 On April 17, 1990, the PTO granted Pioneer trademark rights
14 in the mark "Elite" in International Class Nine for the following
15 goods and services:

16 Audio and video products, namely, amplifiers; video
17 disc players; compact disc players; combination video
18 disc and compact disc players; monitor televisions;
19 loudspeakers; tuners; [turntables;] [sound
processors;] and stereo radio/audio cassette players.

19 This trademark has been used extensively by Pioneer on the
20 goods and services listed in Pioneer's registration as well as on
21 projection televisions, plasma displays, receivers, video cassette
22 recorders and DVD players.

23 **2. Applicant's Trademark**

24 On October 4, 1993, Applicant filed an application for the
25 mark Superscan Elite in International Class Nine for "computer
26 monitors." On April 11, 1995, the PTO granted Applicant's
27 registration of Superscan Elite for computer monitors.
28 Significantly, Applicant's application was limited solely to

1 computer monitors.

2 **3. Applicant's Pending Application.**

3 On February 9, 2001, Applicant* sought to expand dramatically
4 the scope of its Superscan Elite mark in International Class Nine
5 by filing an additional application for Superscan Elite for the
6 following goods and services:

7 video and audio products and systems, namely,
8 televisions, projection televisions, plasma display
9 televisions, video cassette recorders, DVD players, DVD
10 players with built-in DVD recorders, televisions with
11 built-in video cassette recorders, televisions with
12 built-in DVD players, televisions with built-in video
13 cassette recorder and DVD player, audio receivers, audio
14 speakers and home theater systems consisting of any
15 combination of stereo amplifiers, DVD players, video
16 cassette recorders and audio speakers.

13 This proposed registration of the Superscan Elite mark
14 directly conflicts with Pioneer's existing registration for its
15 "Elite" mark, and contemplates selling the exact same products
16 that Pioneer is selling under its famous "Elite" mark.

17 **B. PROCEDURAL BACKGROUND**

18 On March 19, 2002, the PTO published the Superscan Elite
19 application for opposition in the *Official Gazette*. On April 29,
20 2002, Pioneer timely filed this opposition to Applicant's attempt
21 to register Superscan Elite. On June 10, 2002, Applicant filed an
22 answer to Pioneer's Opposition complaint. In its answer,
23 Applicant relied on its 1995 registration of Superscan Elite in
24 International Class Nine, which provided for use solely on
25 computer monitors.

26 Thereafter, on August 7, 2002, Pioneer served Applicant's

27 _____
28 *Applicant originally filed its Application as Nissei Sangyo
America, Ltd. It is currently known as Hitachi High
Technologies America, Inc.

1 counsel with Written Interrogatories, Requests for Admissions, and
2 a Request For Production Of Documents And Things. Many of the
3 discovery questions and production demands requested information
4 about Applicant's prospective use of the Superscan Elite mark
5 including their plans, intentions, or desires to use the mark in
6 the future on certain products or product lines.

7 On September 11, 2002, Applicant sent its discovery responses
8 to Pioneer. Most of the responses received indicated that
9 Applicant did not have any information, documents, or facts
10 evidencing that Applicant had done anything to prepare for use of
11 the Superscan Elite mark on the products listed in the
12 application. Indeed, Applicant's responses to Pioneer's discovery
13 specifically indicated that Applicant had no plans with respect to
14 the use of Superscan Elite. Furthermore, Applicant contended that
15 it had no documents whatsoever. Pioneer responded by filing a
16 motion to compel. On January 20, 2003, Applicant reversed itself,
17 revealing for the first time that it now had approximately **400**
18 boxes of documents. Nevertheless, these documents have yet to be
19 produced.

20 On January 31, 2003, Pioneer took the deposition of Hitachi
21 America, Ltd. ("HAL"), Applicant's domestic parent corporation.
22 During that deposition, Pioneer obtained additional information
23 about HHTA's and HAL's past uses of the Superscan Elite mark.
24 This deposition also revealed for the first time that HAL had
25 abandoned the Superscan Elite mark.

26 On February 13, 2003, counsel for Pioneer sent counsel for
27 HHTA a letter informing them that Pioneer intended to seek an
28 amendment to its Notice of Opposition. This letter also included

1 a draft copy of the Amended Notice of Opposition. Skousen Decl.
2 Exh. C. On February 17, 2003, counsel for Pioneer received a
3 letter indicating that counsel for HHTA could not stipulate to the
4 filing of an amendment because he had been unable to converse with
5 his client. Skousen Decl. Exh. D. On February 19, 2003, counsel
6 for Pioneer sent a second letter to counsel for HHTA informing him
7 that Pioneer would be amenable to an additional 60-day extension
8 of the discovery deadline for the purpose of allowing HHTA
9 additional time to conduct discovery related to the new
10 allegations in the Amended Notice of Opposition. Skousen Decl.
11 Exh. E. On February 25, 2003, counsel for Pioneer received a
12 letter from counsel for Applicant indicating that they would not
13 stipulate to Pioneer's filing of a motion to amend the notice of
14 opposition. Skousen Decl. Exh. F.

15 Moreover, Applicant most recently sent by fax an extensive
16 set of interrogatories and request for production of documents.
17 Applicant has yet to formally serve the set of interrogatories and
18 request for production of documents. Furthermore, the parties
19 recently entered into a stipulation for protective order, and
20 submitted a proposed protective order to the Board. As of the
21 date of this motion, the order has yet to be entered. Thus, at
22 best discovery will be delayed pending the entry of this order.

23 It is obvious from the existence of 400 boxes of documents,
24 an unresolved motion to compel, a pending application for a
25 protective order, and uncompleted depositions that discovery in
26 this matter is far from complete. Moreover, it would seem that an
27 additional 60 to 90 day period of discovery will be required to be
28 prepared to begin the testimony period.

1 The cases make clear that amendment is to be liberally
2 granted. The Board routinely grants such requests during the
3 discovery period. Absent a showing of prejudice, a motion to
4 amend should be granted. It is difficult to see how Applicant
5 suffers any prejudice, and any prejudice that is suffered is self-
6 inflicted because of Applicant's erroneous discovery responses.
7 Accordingly, this motion should be granted.

8 III.

9 ARGUMENT

10 A. UNDER 37 CFR § 2.107 AND FEDERAL RULE OF CIVIL PROCEDURE
11 15(a) LEAVE TO FILE THE AMENDED NOTICE OF OPPOSITION SHALL BE
12 FREELY GIVEN

13 Title 37 of the Code of Federal Regulations § 2.107 provides
14 that the Federal Rules of Civil Procedure control the standards of
15 amendment: "Pleadings in an opposition proceeding may be amended
16 in the same manner and to the same extent as in a civil action in
17 a United States district court."

18 Rule 15(a) of the Federal Rules of Civil Procedure provides
19 that "a party may amend the party's pleading only by obtaining
20 leave of court or by written consent of the adverse party; and
21 leave shall be freely given when justice so requires." Fed. R.
22 Civ. P. 15(a). The Board has long recognized that "amendments to
23 pleadings should be allowed with great liberality at any stage of
24 the proceeding where necessary to bring about a furtherance of
25 justice unless it is shown that entry of the amendment would
26 violate settled law or be prejudicial to the rights of any
27 opposing parties." *American Optical Corp. v. American Olean Tile*
28 *Co.*, 168 U.S.P.Q. 471, 473 (T.T.A.B 1971) (granting motion to

1 amend).

2 Moreover, it has long been the policy of the Board that an
3 Opposer "ought to be afforded an opportunity to test his claims on
4 the merits." *Commodore Electr., Ltd. v. CBM Kabushiki Kaisha*, 26
5 U.S.P.Q.2d 1503, 1505 (T.T.A.B. 1993) (granting motion to amend
6 based on new allegation of lack of bona fide intention under §
7 1(b)). In light of these policies, the Board liberally grants
8 leave to amend pleadings at any stage of a proceeding when justice
9 so requires, unless entry of the proposed amendment would violate
10 settled law or be prejudicial to the rights of the adverse party
11 or parties. See TBMP § 507.02.

12 **B. THE BOARD SHOULD GRANT THIS MOTION TO AMEND THE OPPOSITION**
13 **BECAUSE APPLICANT SUFFERS NO PREJUDICE AND THE PROPOSED**
14 **AMENDMENT DOES NOT VIOLATE SETTLED LAW**

15 1. **Applicant Suffers No Prejudice Because The**
16 **Discovery Period Is Open and Remains Tolloed,**
17 **Pioneer Is Amenable To An Extension Of The**
18 **Discovery Period, And The Testimony Periods Have**
19 **Not Yet Commenced.**

20 In considering whether an applicant suffers prejudice, the
21 Board considers whether the opposer is willing "to allow applicant
22 further time to conduct any follow up discovery with respect to
23 the new claim sought to be added." *Commodore Electronics, Ltd.*
24 *v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1506 (T.T.A.B. 1993).
25 This case is strikingly similar to the facts of *Commodore*
26 *Electronics* where the opposer sought to amend the opposition to
27 include a claim that the applicant did not have a bona fide
28 intention to use the mark at the time the application was

1 submitted for registration, in violation of Lanham Act § 1(b). In
2 granting the amendment, the Board held that "there was no
3 prejudice to the applicant because the discovery period was still
4 open when the motion was filed and because the opposer agreed to
5 allow the applicant further time for follow-up discovery on the
6 new claim." *Id.* at 1507; see *United States Olympic Comm. v. O-M*
7 *Bread, Inc.*, 26 U.S.P.Q.2d 1221 (T.T.A.B. 1993) (applicant would
8 not be prejudiced because proceeding still in pre-trial stage and
9 discovery had been extended); *Focus 21 International, Inc. v. Pola*
10 *Kasei Kogyo Kabushiki Kaisha*, 22 U.S.P.Q.2d 1316 (1992) (motion to
11 amend filed and granted prior to opening of petitioner's testimony
12 period).

13 In this matter, the discovery period is currently suspended
14 pending the determination by the Board of Pioneer's motion to
15 compel. Under the Board's rules, "[w]hen a party files a motion
16 for an order to compel discovery, the case will be suspended by
17 the [Board]. 37 C.F.R. § 2.120(e)(2). In addition, by
18 agreement, the parties have already extended the discovery cut-off
19 to March 15, 2003. Moreover, Pioneer is willing to extend
20 discovery beyond this date. Such an extension would give
21 Applicant ample opportunity to commence additional discovery for
22 the purpose of addressing the additional amendments to the
23 opposition.

24 Although the timing for a motion to amend an opposition can
25 be a consideration for the Board, it is not a concern in this
26 proceeding because the discovery period is still open, the
27 Applicant has been given advance notice of Pioneer's intention to
28 seek an amendment, and Pioneer has offered to allow the Applicant

1 time for additional follow-up discovery on the new claims in the
2 amended opposition. In *Microsoft Corp. v. Qantel Business*
3 *Systems, Inc.*, 16 U.S.P.Q.2d 1732 (T.T.A.B. 1990), the Board held
4 that leave to amend should ordinarily be granted whenever doing so
5 will not prejudice the other party. In that case, the proceeding
6 was still in the discovery phase and the respondent had not shown
7 that any undue prejudice would result from the amendment of the
8 petition to cancel. *Id.* at 1734.

9 Similarly, when the testimony period has yet to commence,
10 permitting an amendment is appropriate. See, e.g., *Caron Corp. v.*
11 *Helena Rubenstein, Inc.*, 193 U.S.P.Q. 113 (T.T.A.B. 1976)
12 (amendment allowed because neither party had yet taken testimony).
13 When "the proceeding is still in the pre-trial phase" applicant
14 suffers no prejudice even if some discovery has been done. *United*
15 *States Olympic Comm., v. O-M Bread, Inc.*, 26 U.S.P.Q.2d 1221, 1223
16 (T.T.A.B. 1993) (granting motion to amend).

17 Nevertheless, even during the testimony period, the Board has
18 held that an amendment to an opposition is proper. In *Space Base,*
19 *Inc. v. Stadis Corp.*, 17 U.S.P.Q.2d 1216 (T.T.A.B. 1990), the
20 opposer sought to amend its notice of opposition after uncovering
21 additional facts during the discovery period. In granting the
22 motion to amend, the Board held that where an opposer filed a
23 motion to amend its pleading during the testimony period, the
24 motion nevertheless can be granted because the interests of
25 justice and judicial economy would best be served thereby.
26 Moreover, any prejudice suffered by applicant in the granting of
27 the motion could be mitigated by reopening discovery solely for
28 the applicant. *Id.* at 1217.

1 In this matter, Applicant would suffer no prejudice if the
2 amendment is permitted. Because discovery is currently tolled
3 pending the outcome of Pioneer's motion to compel, there will be
4 no delay whatsoever. Furthermore, because Applicant is agreeable
5 to extending discovery to the end of March 2003, there is adequate
6 time to complete any additional discovery.

7 **2. Pioneer's Proposed Amendment Is Necessary To Fully**
8 **Litigate All Claims In This Matter**

9 Here, Opposer seeks to add three new claims to its notice of
10 opposition: (1) The Applicant does not have a bona fide intention
11 to use the Superscan Elite mark, thus violating Lanham Act § 1(b);
12 (2) Applicant intends to rely on its prior Superscan Elite mark
13 for computer monitors and based on that reliance, Pioneer is
14 alleging that Applicant has abandoned this prior mark; and (3)
15 Applicant's suggested use of the Superscan Elite mark, as
16 determined through discovery, will dilute Opposer's famous mark in
17 violation of Lanham Act 43(c). These amendments are necessary to
18 fully litigate all claims between the parties because TTAB rules
19 of procedure are clear that claims or defenses which are not
20 asserted in the pleadings as originally filed, or as amended or
21 deemed amended, will not be entertained by the Board. See TBMP §
22 321.

23 As is set forth above, Opposer not only requested that
24 Applicant stipulate to this motion but also offered to extend the
25 discovery period so that Applicant has an ample opportunity to
26 prepare defenses to these new claims. This is important because,
27 in granting a motion for leave to amend under FRCP 15(a), the
28 Board may, in its discretion, reopen the discovery period so as to

1 avoid any prejudice to the adverse party by reason of the
2 amendment. *Commodore Electronics, Ltd.*, 26 U.S.P.Q.2d at 1507;
3 *United States Olympic Comm.*, 26 U.S.P.Q.2d at 1223 (no prejudice
4 to applicant because discovery period extended).

5 Applicant has rejected these offers, and has obstructed
6 discovery by failing to produce documents after claiming that no
7 documents even existed. Moreover, Applicant has also been a
8 source of delay of the depositions that had originally been
9 scheduled for October and December of 2002.

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IV.

CONCLUSION

Based on the foregoing facts, conclusions, and points of law, the Board is respectfully urged to grant this motion to amend the notice of opposition. The facts giving rise to these amendments only became available to Opposer through the discovery process. No prejudice will result to the Applicant if this amendment is granted because the discovery deadline can be extended to allow the Applicant additional time to prepare defenses to the new claims. Moreover, Opposer is amenable to such an extension and has offered such an extension to Applicant. The Board is, therefore, urged to grant this motion and deem the Amended Notice of Opposition filed and served.

DATED: February 19, 2003

SKOUSEN & SKOUSEN
A Professional Corporation

By: 

Robert James Skousen
Skousen & Skousen
12400 Wilshire Blvd., Suite 900
Los Angeles, CA 90025-1060
Telephone: (310) 277-0444
Facsimile: (310) 782-9579

Attorneys for Pioneer Kabushiki
Kaisha dba Pioneer Corporation

1 amendment because he had been unable to converse with his client.

2 7. On February 19, 2003, I sent a second letter to counsel
3 for HHTA informing him that I would be amenable to a 60-day
4 extension of the discovery deadline for the purpose of allowing
5 HHTA additional time to prepare a defense to the new allegations
6 in the Amended Notice of Opposition.

7 8. On February 25, 2003, I received a rejection of my offer
8 to stipulate to the propose Amended Notice of Opposition.

9 9. Attached hereto and incorporated herein by reference are
10 true and correct copies of the following documents submitted in
11 support of this motion to compel:

12 Exhibit A-Proposed Amended Notice Of Opposition;

13 Exhibit B-January 20, 2003 letter from William McGrath
14 to Robert Skousen

15 Exhibit C-February 13, 2003 letter from Robert Skousen
16 to William McGrath;

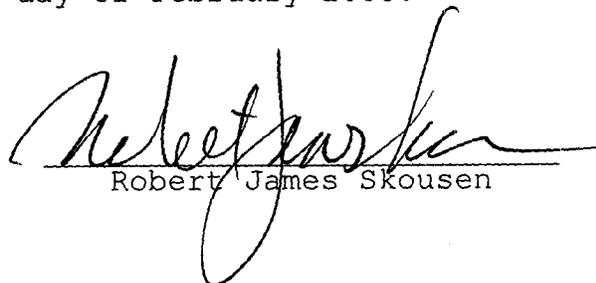
17 Exhibit D-February 17, 2003 letter from William McGrath
18 to Robert Skousen;

19 Exhibit E-February 19, 2003 letter from Robert Skousen
20 to William McGrath; and

21 Exhibit F-February 25, 2003 letter from William McGrath
22 to Robert Skousen.

23 I certify under penalty of perjury under the laws of the
24 United States of America that the foregoing is true and correct.
25 Executed this 25th day of February 2003.

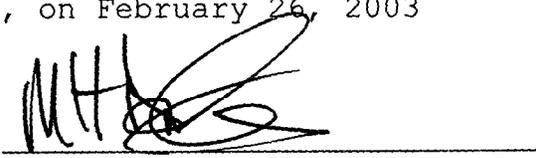
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Robert James Skousen

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

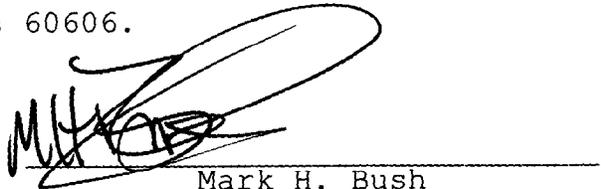
I hereby certify that the foregoing **NOTICE OF MOTION AND MOTION TO AMEND THE NOTICE OF OPPOSITION; MEMORANDUM OF POINTS AND AUTHORITIES; and DECLARATION OF ROBERT JAMES SKOUSEN** is being deposited with the United States Postal Service, first class postage prepaid, in an envelope addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on February 26, 2003



Mark H. Bush

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF MOTION AND MOTION TO AMEND THE NOTICE OF OPPOSITION; MEMORANDUM OF POINTS AND AUTHORITIES; and DECLARATION OF ROBERT JAMES SKOUSEN** is being deposited with the United States Postal Service, first class postage prepaid, in an envelope addressed to William T. McGrath, Esq., Davis, Mannix & McGrath, 125 South Wacker Drive, Suite 1700, Chicago, Illinois 60606.



Mark H. Bush

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03-03-2003
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February 26, 2003

Commissioner For Trademarks
BOX TTAB NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

RE: Pioneer Corp. v. Nissei Sangyo America, Ltd.
Opposition No. 125,458
Submission of Motion To Amend Notice Of Opposition

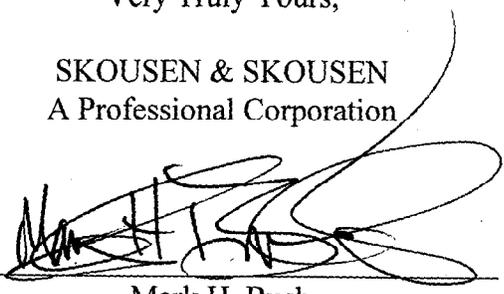
Dear Sir or Madam:

I am enclosing the following documents: (1) Notice Of Motion And Motion To Amend The Notice Of Opposition; (2) Memorandum Of Points And Authorities; (3) Declaration Of Robert James Skousen; and (4) Certificate Of Service; (5) A stamped postcard for confirmation of receipt. If you have any questions or comments, please do not hesitate to contact me directly.

Very Truly Yours,

SKOUSEN & SKOUSEN
A Professional Corporation

By:



Mark H. Bush
Law Clerk

03 MAR 13 AM 9:30
TRADEMARK TRIAL AND
APPEAL BOARD

