



## FACTUAL BACKGROUND

On February 24, 2003, Pioneer issued a notice of deposition for Applicant's Vice President and General Manager Michael Levans. The deposition was noticed for March 6, 2003 at 10:00 a.m. Opposer also issued a 30(b)(6) deposition notice to Hitachi High Technologies America, Inc. for the same date and time. Pursuant to the noticed depositions, Applicant produced Mr. Levans for deposition on March 6. Because both depositions were noticed for the same day, Applicant's counsel advised Pioneer's counsel that Mr. Levans would also serve as the corporation's officer for the 30(b)(6) deposition. Since both the Levans deposition and the 30(b)(6) deposition were noticed for the same day, it was clear to everyone that Applicant had not intended to subject Mr. Levans, a high ranking officer, to two days of deposition testimony. (See Exhibit A, Letter dated June 17, 2003 from Applicant's Counsel William T. McGrath to Pioneer's Counsel Robert J. Skousen.)

During the March 6 deposition of Mr. Levans, Pioneer's counsel conducted a wide ranging deposition, consisting of almost five hours of questioning and generating a transcript of 173 pages. After questioning Mr. Levans for a total of four hours and 29 minutes, Pioneer's counsel decided to conclude the deposition at 3:49 p.m. When Pioneer's counsel concluded the deposition, Mr. Levans was ready, willing and able to be deposed for the entire 7 hours allotted to Pioneer under Rule 30(d). Pioneer's decision to end the deposition at 3:49 p.m. was unilateral. Pioneer's counsel stated he was "adjourning" the deposition, but Applicant's counsel disagreed stating that the deposition was "concluded." Applicant had never agreed to produce Mr. Levans for more than one day of testimony.

By order of the Board dated March 11, 2003 the proceedings were suspended for approximately two months while a prior motion to compel filed by Pioneer was pending. On May 16, 2003, the Board denied that motion to compel and discovery continued.

Shortly after the issuance of the order resuming proceedings, Pioneer demanded a further deposition of Mr. Levans and a further deposition of the corporation under Rule 30(b)(6). On June 12, 2003, Pioneer served a second deposition notice for Mr. Levans and a second 30(b)(6) notice upon the corporation. Applicant did not produce Mr. Levans for a second deposition, making Pioneer fully aware of Applicant's position for not doing so. (See Exhibit A). Instead, the June 17 letter contained a good faith attempt on the part of Applicant to resolve the dispute by offering an additional 30(b)(6) designee for a full seven-hour deposition. (See Exhibit A). HHTA informed Pioneer that its additional 30(b)(6) designee would be Stephen Snoke, Executive Vice President and General Counsel of HHTA, and that Mr. Snoke would appear for the deposition on June 25, 2003. (See Exhibit B, Letter dated June 20, 2003 from Applicant's Counsel William T. McGrath to Pioneer's Counsel Robert J. Skousen). In the June 20 letter, Applicant reiterated its position to Pioneer that the continued attempts at taking an additional deposition of Michael Levans were beyond the power granted to Pioneer by the Rules of Civil Procedure, and constituted harassment.

Pioneer accepted Applicant's offer to forego further dispute over the Levans deposition, though it reserved the right to file a motion to compel the deposition of Mr. Levans if it deemed the corporate witness was "insufficient." (See Exhibit C, Letter dated June 17, 2003 from Robert J. Skousen to William T. McGrath). As it had promised, Applicant produced Mr. Snoke for deposition as an additional 30(b)(6)

designee on June 25, 2003, making him available for an entire seven hour session. Counsel for Pioneer deposed Mr. Snoke regarding a wide variety of topics for approximately three hours.

Despite having had Mr. Levans and an additional 30(b)(6) witness made available to it on two separate occasions, Pioneer did not relent in its campaign of harassment against Applicant, and continued to demand an additional deposition of Mr. Levans. The present motion to compel is merely a continuation of Pioneer's campaign.

In addition to insisting on a second discovery deposition of Mr. Levans, Pioneer has now indicated that it also intends to take a testimonial deposition of Mr. Levans by means of subpoena (as well as testimonial depositions of Mr. Snoke and several other employees of Applicant) during the testimony period. (See Exhibit D Subpoena of Michael Levans.)

### ARGUMENT

#### **A. Response to Motion to Compel**

##### **1. Pioneer Has Exhausted Its Opportunity Provided to Conduct the Deposition of Michael Levans.**

Rule 30(d)(2) of the Federal Rules of Civil Procedure provides that a deposition is limited to "one day of seven hours." Pioneer argues that because it chose to conduct only four hours and 29 minutes of deposition of Michael Levans, it is entitled to an additional 2 hours and 31 minutes of deposition time on another day. Such a conclusion is contrary to the plain language of Rule 30(d)(2). Pioneer is attempting to read the rule in a way that benefits its position in the matter, and in so doing, has ignored what the rule actually says.

The time limit for a deposition is stated clearly in the rule: "one day of seven hours." In its Motion to Compel, Pioneer emphasizes the seven hour aspect of the rule. It glosses over, however, the one day aspect. The rule does not state that depositions may be taken from day to day for a total of seven hours. It states unequivocally that depositions are to be taken during one day, that day consisting of up to seven hours. The deposing party cannot unilaterally decide to conduct the deposition on two days of 3 ½ hours or seven days of 1 hour. It cannot, absent agreement, start a deposition one day and "complete" it another day. The Advisory Committee Notes quoted by Pioneer (Mem. p. 15) make clear that extending a deposition over multiple days can only be done if the parties agree to such an arrangement ("the limitation is phrased in terms of a single day. . . . [I]f alternative arrangements would better suit the parties, they may agree to them").

The mandate of Rule 30(d)(2), in imposing a "one day" time limit on depositions prohibits Pioneer's counsel's attempt to reserve the right to continue the deposition on another day. Applicant made Mr. Levans available for a full day of deposition on March 6, 2003. Pioneer has been provided with the complete opportunity to depose Mr. Levans for the full amount of time provided under the rule. Pioneer cannot now claim that its failure to take the full seven hours should entitle it to another day. When it ended its questioning of Mr. Levans on March 6, it waived any claim to more hours of Mr. Levans' time.

Pioneer's Memorandum cites only one case, *Truxes v. Rolan Electric Corp.*, 314 F.Supp. 752, 759 (D.P.R. 1970) (Mem. p. 16) in support of its motion to compel. That case is wholly inapplicable, however, because it preceded by many years the adoption of the "one day" rule in Rule 30(d)(2).

**2. Pioneer's Attempt to Conduct Further Deposition of Michael Levans Constitutes an Attempt to Harass and Annoy Applicant.**

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Although the rules of discovery are accorded liberal construction, a party is not entitled to conduct discovery that is intended to harass, annoy, embarrass, or oppress an opposing party. *VICA Coal Co., Inc. v. Crosby*, 212 F.R.D. 498 (S.D.W.Va. 2003). In deciding whether a deposition should be had, courts often balance the right of a party to conduct discovery within the limits of the rules, and the right of an officer at the "apex" of a large corporation to avoid being subject to undue harassment and abuse. *FMR Corp. v. Alliant Partners*, 1999 TTAB LEXIS 354 (TTAB 1999).

Mr. Levans is a high-ranking executive at Hitachi High Technologies America, Inc. and has many responsibilities. As Vice President and General Manager of the Electronic Products Division, he has responsibility for all operations of Applicant's Electronic Products Division throughout the United States. As stated above, Applicant made Mr. Levans available for a full day of deposition on March 6, 2003. Pioneer's counsel questioned Mr. Levans at length about the marks involved in this case, the channels of trade, Applicant's intent to use the SUPERSCAN ELITE mark, Applicant's product line, price points, past use of the SUPERSCAN and SUPERSCAN ELITE marks, the types of customers to which Applicant intends to market SUPERSCAN ELITE products and many other lines of inquiry.

Pioneer contends that it is entitled to another deposition of Mr. Levans because certain subpoenaed documents had not been produced at the time Mr. Levans was deposed. However, contrary to the assertion in Pioneer's Memorandum (p. 7), the subpoena did not request production at the deposition on March 6, but rather requested

production the following day, March 7, 2003. Opposer's own correspondence, dated March 12, 2003, shows that Opposer did not expect production of those documents until after the Levans deposition. ("The documents were to be produced on March 7, 2003 in Chicago following the deposition of Mike Levans"). The March 12, 2003 letter is attached hereto as Exhibit E. Moreover, it was unreasonable to think that Applicant could have searched for and produced the documents even by March 7, since the document subpoena was served on February 25, just 7 business days before the date requested for production. The documents were later produced after the suspension order was lifted and prior to the deposition of Mr. Snoke.

The Board has made clear that harassment in the context of taking the depositions of corporate officers will not be tolerated. In *FMR Corp. v. Alliant Partners, supra*, the Board granted a protective order against the deposition of a high ranking corporate officer where it had been shown that there were other individuals with adequate knowledge of relevant facts. The Board prohibited the taking of any deposition testimony of the requested individuals. In the present case, Applicant is even more entitled to a protective order because nearly five hours of discovery deposition testimony has already been taken, and the opportunity to provide a full seven hours was given to Pioneer. What's more, in an effort to resolve the dispute and accommodate Pioneer, Applicant produced Mr. Snoke, an Executive Vice-President of the company, as an additional 30(b)(6) designee. Applicant made Mr. Snoke available for a full day of deposition on June 25, 2003, though Pioneer chose not to question Mr. Snoke for the entire seven hours allotted to it.

Opposer has already had substantial discovery in the matter, including the service of and response to at least 65 interrogatories, 40 requests for admission, and 46 requests for production of documents along with the opportunity for two full days to inspect and copy documents. It has deposed two of Applicant's Vice-Presidents (Mr. Levans and Mr. Snoke), and a 30(b)(6) witness for Hitachi America, Ltd., which is not a party to this action. It has also subpoenaed documents from and deposed two employees of Hitachi Home Electronics, Inc., another non-party, and conducted those depositions on extremely short notice.

Opposer has failed to provide any convincing reason why it needs to re-depose Mr. Levans. It has failed to identify any of the 29 topics listed in the 30(b)(6) notice (Pioneer Ex. A) that either Mr. Levans or Mr. Snoke did not respond to. The various exchanges listed in Pioneer's Memorandum (p. 9-12) either relate to topics that were discussed at length by one or both of the witnesses or, went beyond the topics identified in the 30(b)(6) notice. Moreover, Opposer has failed to show the relevance of any further information it is seeking from Mr. Levans. This is not a case where Mr. Levans holds some crucial piece of relevant information necessary for Opposer's case. It had a full opportunity to ask Mr. Levans about all 29 topics in the 30(b)(6) notice and to do so again with Mr. Snoke. If it needed to ask Mr. Levans about the details of certain documents, it should have timely arranged for the production of documents prior to Mr. Levans' deposition. By noticing the deposition for a date prior to the production of documents, Opposer waived any right to re-depose Mr. Levans to ask about those documents.

It should also be noted that Pioneer intends to take a testimonial deposition of Mr. Levans. This minimizes or eliminates any imagined need for more deposition testimony of Mr. Levans. This bolsters the conclusion that Pioneer's demand for yet another discovery deposition of Mr. Levans is unnecessary and is being sought solely for the purpose of harassment.

**B. Response to Motion for Sanctions**

Applicant incorporates all of the above in making its argument against Opposer's Motion for Sanctions. No sanctions of any sort against Applicant are warranted in this matter, as Applicant has acted properly throughout the entire discovery process, and is not guilty of any misconduct in the present dispute over the Levans depositions. Applicant made a good faith effort to resolve the dispute about a second deposition of Mr. Levans by offering its Executive Vice-President, Mr. Snoke, and Opposer accepted that offer. Had Opposer not accepted that offer, Applicant would have filed a Motion for Protective Order. Only after taking Mr. Snoke's deposition did Opposer file its Motion to Compel.

Rule 37(b)(2)(C) limits the imposition of sanctions to situations where a court order has been violated. *Brandt v. Vulcan, Inc.*, 30 F.3d 752, 756 (7th Cir. 1994). The sanction of dismissal is only proper where a party's non-compliance is due to willfulness, fault, or bad faith. *Fjelstad v. American Honda Motor Co., Inc.*, 762 F.2d 1334, 1337 (9th Cir. 1985). Due process limits the imposition of dismissal to "extreme circumstances". *Id.*, at 1338. Furthermore, due process requires that any sanction imposed pursuant to the Federal Rules must be just. *Id.*, at 1340.

In this case, Applicant has not violated any discovery order compelling the attendance of Mr. Levans at a deposition. Moreover, Applicant's conduct has not been willful. On the contrary, it worked in good faith with Opposer to resolve the dispute, despite having a good faith argument that the second deposition was never permitted under Rule 30(b)(2) to begin with. Applicant has simply acted according to the plain meaning of Rule 30(d)(2), and produced deposition witnesses pursuant to that rule's mandates. Furthermore, there has been no prejudice to Opposer from Applicant's refusal to produce Mr. Levans for an additional deposition. In fact, Opposer has benefited from Applicant's good faith efforts to resolve the present discovery dispute: Applicant provided Opposer with the opportunity to depose an additional 30(b)(6) witness, Mr. Snoke.

The refusal to agree to the additional deposition of Michael Levans is based on Applicant's assertion that it is legally justified in not producing Mr. Levans for an additional deposition. Applicant has produced witnesses for depositions in this matter according to the plain meaning of Rule 30(d)(2), and Opposer cannot require Applicant to do any more with regard to producing witnesses for deposition than what it is required to do under the rules.

Even if the Board concludes that Applicant is wrong and that Mr. Levans must be made available for a deposition, this does not call for sanctions, either in the form of dismissal or compelling Mr. Levans (and his attorneys) to travel from Chicago to Los Angeles to give the deposition. There is no bad faith here, just a reasonable disagreement over the requirements of Rule 30(d)(2). Opposer has failed to show any conduct by Applicant which would warrant sanctions.

CONCLUSION

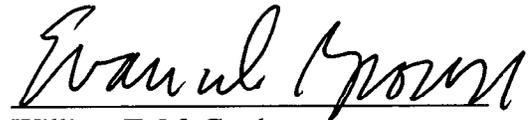
For the reasons set forth herein, Applicant respectfully requests that the Board deny Pioneer's Motions, and that it award such other relief to Applicant as it deems just and proper.

Respectfully submitted,

DAVIS, MANNIX & McGRATH

August 8, 2003

By:



William T. McGrath

Evan D. Brown

DAVIS, MANNIX & McGRATH

125 S. Wacker Dr., Suite 1700

Chicago, IL 60606

Telephone: (312) 332-3033

Facsimile: (312) 332-6376

Attorneys for Applicant

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

"Express Mail" mailing label number **EV11657277US**

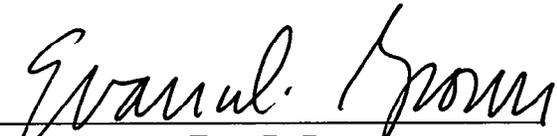
I hereby certify that the foregoing APPLICANT'S RESPONSE TO PIONEER'S MOTION FOR AN ORDER COMPELLING THE ATTENDANCE OF MICHAEL LEVANS AT THE CONTINUED DEPOSITION OF APPLICANT HITACHI HIGH TECHNOLOGIES AMERICA, INC. and APPLICANT'S RESPONSE TO PIONEER'S MOTION FOR SANCTIONS PURSUANT TO TRADEMARK RULE OF PRACTICE 2.120(g)(2) AND FEDERAL RULE OF CIVIL PROCEDURE 37, OR ALTERNATIVELY FOR AN ORDER TO COMPEL THE ATTENDANCE OF MICHAEL LEVANS AT DEPOSITION IN LOS ANGELES is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on **August 8, 2003**.



Evan D. Brown

## CERTIFICATE OF SERVICE

I hereby certify that on **August 8, 2003**, a copy of the foregoing APPLICANT'S RESPONSE TO PIONEER'S MOTION FOR AN ORDER COMPELLING THE ATTENDANCE OF MICHAEL LEVANS AT THE CONTINUED DEPOSITION OF APPLICANT HITACHI HIGH TECHNOLOGIES AMERICA, INC. and APPLICANT'S RESPONSE TO PIONEER'S MOTION FOR SANCTIONS PURSUANT TO TRADEMARK RULE OF PRACTICE 2.120(g)(2) AND FEDERAL RULE OF CIVIL PROCEDURE 37, OR ALTERNATIVELY FOR AN ORDER TO COMPEL THE ATTENDANCE OF MICHAEL LEVANS AT DEPOSITION IN LOS ANGELES was served via overnight courier to Robert James Skousen, Esq., Skousen & Skousen, P.C., 12400 Wilshire Boulevard, Suite 900, Los Angeles, CA 90025-1060.

  
Evan D. Brown

DAVIS, MANNIX & McGRATH  
ATTORNEYS AT LAW  
125 SOUTH WACKER DRIVE  
SUITE 1700  
CHICAGO, ILLINOIS 60606-4402  
(312) 332-3033

WILLIAM T. McGRATH  
(312) 332-4748

FAX (312) 332-6376  
wmcgrath@dmmlaw.com

June 17, 2003

Via Fax - 310/782-9579 and U.S. Mail

**FILE COPY**

Robert James Skousen  
Skousen & Skousen, P.C.  
12400 Wilshire Boulevard, Suite 900  
Los Angeles, CA 90025-1060

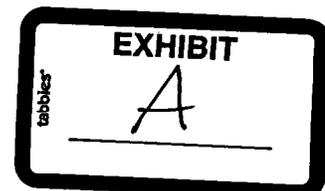
Re: Pioneer Corp. v. Hitachi High  
Technologies America, Inc.  
Opposition No. 125,458

Dear Mr. Skousen:

We have reviewed your letter of June 4 demanding a further deposition of Mr. Levans. It is our view that you have already had the opportunity to depose Mr. Levans for a full day. You could have continued to depose Mr. Levans for another 2 hours and 20 minutes on March 6, 2003, but chose not to do so. It was you who chose to stop questioning the witness at 3:49 p.m. We were willing to continue. The Federal Rules and Committee Notes are clear that you cannot extend your deposition to more than one day unless the parties agree to it, which we did not. Moreover, your deposition notice for Mr. Levans and for the 30(b)(6) witness were for the same date and time, which indicates that you did not intend to depose Mr. Levans for two days and we certainly never agreed to make him available for two days.

We are willing to present a corporate witness under Rule 30(b)(6) for a full seven hours to respond to the topics stated in your 30(b)(6) deposition notice.

We consider your attempt to depose Mr. Levans again to be harassment, pure and simple. We are willing to provide a 30(b)(6) witness for seven hours to accommodate your interests and as a means of resolving our difference of opinion.



DAVIS, MANNIX & McGRATH

We hope you find this to be a satisfactory solution to this issue. Please advise us by 5:00 p.m. Pacific Time if this is acceptable to you.

Very truly yours,

DAVIS, MANNIX & McGRATH

A handwritten signature in cursive script that reads "William T. McGrath". The signature is written in dark ink and is positioned above the printed name.

William T. McGrath

WTM:ph

cc: S. Snoke

6/20/03  
**FILE COPY**

**DAVIS, MANNIX & McGRATH**  
ATTORNEYS AT LAW  
125 SOUTH WACKER DRIVE  
SUITE 1700  
CHICAGO, ILLINOIS 60606-4402  
(312) 332-3033

**WILLIAM T. McGRATH**  
(312) 332-4748

FAX (312) 332-6376  
wmcgrath@dmmlaw.com

June 20, 2003

**VIA FACSIMILE - 310-782-9579 and  
OVERNIGHT DELIVERY**

Robert Skousen, Esq.  
SKOUSEN & SKOUSEN P.C.  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1060

**RE: Pioneer Corp. v. Hitachi High Technologies America,  
Opposition No. 125,458**

Dear Mr. Skousen:

We are pleased that you have accepted our offer to forego further dispute regarding the issues surrounding the depositions in the above-referenced matter. As our offer to you in our previous letter stated, Hitachi will produce a 30(b)(6) designee to provide testimony for one day of seven hours. While we do not believe that Hitachi is required to disclose to you the identity of the designee, it is Hitachi's intent to produce Steve Snoke for the deposition. Mr. Wakino has retired from HHTA, and has returned to Japan.

Mr. Snoke will be available on June 25 at the place and time stated in your 30(b)(6) deposition notice.

Regarding your assertion that you reserve the right to bring motions to compel the depositions of Michael Levans "and any other 30(b)(6) designees if the testimony given by your corporate witness(es) is insufficient", it is our position that any such motion would be without merit. First, as we have made clear to you, Michael Levans has already been produced for a full day of deposition, which you cut short. Secondly, it is within Hitachi's discretion whom to produce in response to the 30(b)(6) deposition notice. If you file any motions to compel regarding these depositions, you should immediately expect to be served with a motion for protective order. We re-assert to you that any attempts to re-depose Michael Levans would be considered clear attempts at harassment, and will not be tolerated by Hitachi.

**EXHIBIT**  
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DAVIS, MANNIX & McGRATH

Robert J. Skousen, Esq.  
June 20, 2003  
Page 2 of 2

Finally, the documents you have requested pursuant to your Rule 45 subpoena *duces tecum* are enclosed. All are designated as "Trade Secret/Commercially Sensitive Material." Ultra-sensitive information such as customer names and some pricing information has been redacted.

Very truly yours,

DAVIS, MANNIX & McGRATH



William T. McGrath

Enclosures  
Cc: Steve Snoke

SKOUSEN & SKOUSEN  
A PROFESSIONAL CORPORATION  
SUITE 900  
12400 WILSHIRE BOULEVARD  
LOS ANGELES, CALIFORNIA 90025-1060  
TELEPHONE (310) 277-0444  
TELECOPIER (310) 782-9879

June 17, 2003

Via Facsimile (312) 332-6376 & U.S. Mail

William T. McGrath, Esq.  
Davis, Mannix & McGrath  
125 South Wacker Drive, Suite 1700  
Chicago, Illinois 60606-4402

RE: Pioneer Corp. v. Hitachi High Technologies America, Inc.  
Opposition Number 125,458  
**Rule 30(b)(6) and Michael Levans Depositions**

Dear Mr. McGrath:

I am in receipt of your letter dated June 17, 2003 with respect to the depositions of Michael Levans and HHTA's 30(b)(6) designees. I disagree with your position that our attempt to complete Mr. Levans' 30(b)(6) and individual depositions is harassment, "pure and simple." As I indicated during my multiple letters to you on this issue, your client failed to produce documents at its deposition pursuant to the duly served Rule 45 subpoena *duces tecum*. My statement during the deposition was clear that I intended to continue the deposition pending receipt of those documents. As you are aware, those documents still have not been produced. Moreover, your letter fails to address the authority I cited in my June 4, 2003 letter to you regarding Mr. Levans' deposition. The committee notes and case law clearly indicate that I am entitled to a separate seven-hour deposition of Mr. Levans as an individual, irrespective of your argument that the depositions were set at the same time on March 6, 2003.

Notwithstanding our disagreement over Mr. Levans' deposition, we are willing to agree to take the 30(b)(6) deposition as a potential means of resolving this discovery dispute. We see this deposition as a possible means of resolving any outstanding issues that may exist with respect to Mr. Levans' deposition as well. Our agreement to this arrangement is subject to several caveats. (1) The documents must be produced in advance of my arrival in Chicago, preferably by overnight delivery by Thursday, June 19, 2003. (2) We reserve the right to bring motions to compel the depositions of Michael Levans and any other 30(b)(6) designees if the testimony given by your corporate witness(es) is insufficient. (3) We need to know whether you



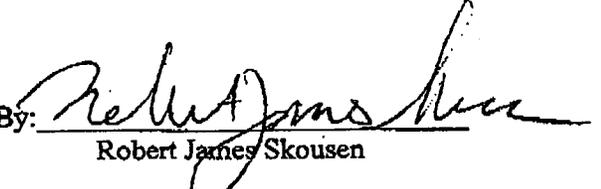
William T. McGrath, Esq.  
June 17, 2003  
Page 2

intend to produce Steve Snoke and/or Kazuhiko Wakino for the 30(b)(6) deposition, given Mr. Levans testimony that Steve Snoke and Kazuhiko Wakino are persons most knowledgeable. Your letter only indicates that you are willing to present a "corporate witness" but does not designate the individuals identified by Mr. Levans during his deposition. Because Mr. Snoke verified your client's interrogatory and request for admission responses, it would seem appropriate, at the very least, for him to be made available as a 30(b)(6) designee.

I intend to be in Chicago to take begin taking depositions Wednesday, March 25, 2003 at 10:00 a.m. at the address listed in the Notice of Deposition. If this does not comport with your offer to make a 30(b)(6) witness available, please contact me immediately.

Very truly yours,

SKOUSEN & SKOUSEN  
A Professional Corporation

By:   
Robert James Skousen

Issued by the  
**United States District Court**  
 NORTHERN DISTRICT OF ILLINOIS

**SUBPOENA IN A CIVIL CASE**  
 Testimonial Deposition

Pioneer Kabushiki Kaisha d/b/a  
 Pioneer Corporation

v.

Nissei Sangyo America, Ltd. n/k/a  
 Hitachi High Technologies America, Inc.

CASE NUMBER: Opposition No. 125, 458  
 US Patent and Trademark Office; Trademark and Trial Appeal Board

TO: Michael Levans

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

|                    |               |
|--------------------|---------------|
| PLACE OF TESTIMONY | COURTROOM     |
|                    | DATE AND TIME |

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

|   |   |
|---|---|
| PLACE OF DEPOSITION <b>Legal Link Chicago, 230 W. Monroe St., Suite 1500, Chicago, Illinois 60606</b> | DATE AND TIME<br><b>August 8, 2003 at 9:30 a.m.</b> |
|---|---|

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

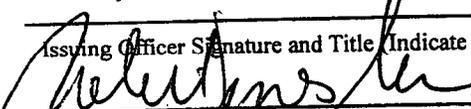
See attachment "A for documents to be produced pursuant to FRCP 45(b).

|   |   |
|---|---|
| PLACE <b>Legal Link Chicago, 230 W. Monroe St., Suite 1500, Chicago, Illinois 60606</b> | DATE AND TIME<br><b>August 8, 2003 at 9:30 a.m.</b> |
|---|---|

YOU ARE COMMANDED to produce and permit inspection of the following premises at the date and time specified below.

|          |               |
|----------|---------------|
| PREMISES | DATE AND TIME |
|----------|---------------|

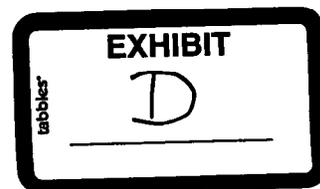
Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

|   |                              |
|---|------------------------------|
| Issuing Officer Signature and Title (Indicate if attorney for Plaintiff or Defendant)<br> <i>Attorney for Opposer</i> | Date<br><b>July 28, 2003</b> |
|---|------------------------------|

Issuing Officer's Name, Address, and Phone Number  
 Robert James Skousen, SKOUSEN & SKOUSEN, PC, 12400 Wilshire Blvd. Ste. 900, Los Angeles, CA 90025; (310) 277-0444

(See Rule 45, Federal Rules of Civil Procedure Parts C & D on Reverse)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.



SKOUSEN & SKOUSEN  
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TELECOPIER (310) 782-9579

March 12, 2003

Via Facsimile (312) 332-6376 & U.S. Mail

William T. McGrath, Esq.  
Davis, Mannix & McGrath  
125 South Wacker Drive, Suite 1700  
Chicago, Illinois 60606

RE: Pioneer Corp. v Nissei Sangyo America, Ltd., etc., et. al.  
TTAB Opposition No. 125,458  
**Document Production**

Dear Mr. McGrath:

As you know, we served a subpoena *duces tecum* on Hitachi High Technologies America, Inc. on February 24, 2003. The documents were to be produced on March 7, 2003 in Chicago following the deposition of Mike Levans. Nevertheless, you informed me and Mr. Levans testified on March 6, 2003 that his office was still working on finding all of the documents responsive to that subpoena.

Accordingly, please advise me at your earliest opportunity when documents responsive to the subpoena will be forwarded to this office. If you have any questions or comments, please do not hesitate to contact me directly.

Very Truly Yours,

SKOUSEN & SKOUSEN  
A Professional Corporation

By: \_\_\_\_\_

Robert James Skousen

