

08/21/2003 TTAB

TTAB

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TRADEMARK OPPOSITION
DOCKET NO. 15027.203

Exh.

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

In the matter of Trademark Application Serial No. 76/212,011
Published in the Official Gazette of May 28, 2002, at page TM 497, Int'l Class 35
Filed: February 20, 2001
Mark: STAACHI'S CO. 1996 & DESIGN



08-13-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

SINCLAIR OIL CORPORATION
Opposer,

Opposition No. 152,940

v.

SUMATRA KENDRICK
Applicant.

**TRANSMITTAL FOR OPPOSER'S
MOTION TO COMPEL ANSWERS TO
INTERROGATORIES AND
PRODUCTION OF DOCUMENTS AND
MEMORANDUM IN SUPPORT
THEREOF AND OPPOSER'S MOTION
TO EXTEND DISCOVERY AND
TRIAL PERIODS**

TRANSMITTAL

Box: TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

Transmitted herewith is Opposer's Motion to Compel Answers to Interrogatories and Production of Documents and Memorandum in Support Thereof (³⁷~~35~~ pgs.); Declaration of Robyn L. Phillips in Support of Opposer Sinclair's Motion to Compel Answers to Interrogatories and Production of Documents and Memorandum in Support Thereof with Exhibits (¹¹⁸~~109~~ pgs.); Opposer's Motion to Extend Discovery and Trial Periods (4 pgs.); Certificate of Express Mailing (2 pgs.); and Postcard for entry in the above-identified matter.

DATED this 13th day of August, 2003.

By: Robyn L. Phillips
John C. Stringham, Registration No. 40,831
Robyn L. Phillips, Registration No. 39,330

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Attorneys for Opposer
SINCLAIR OIL CORPORATION

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SINCLAIR OIL CORPORATION

Opposer,

v.

SUMATRA KENDRICK

Applicant.

Opposition No. 152,940

**CERTIFICATE OF EXPRESS
MAILING UNDER 37 C.F.R. § 1.10**

"Express Mail" Mailing Label No.: EV292942785US

I hereby certify that the following documents are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 in an envelope addressed to: Box: TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on this 13th day of August, 2002:

- Transmittal (2 pgs.)
- Opposer's Motion to Compel Answers to Interrogatories and Production of Documents and Memorandum in Support Thereof (~~30~~³⁷ pgs.)
- Declaration of Robyn L. Phillips in Support of Opposer Sinclair's Motion to Compel Answers to Interrogatories and Production of Documents and Memorandum in Support Thereof with Exhibits (~~16~~¹⁵ pgs.)
- Opposer's Motion to Extend Discovery and Trial Periods (4 pgs.)
- Postcard

DATED this 13th day of August, 2003.

By: Robyn L. Phillips
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Robyn L. Phillips, Registration No. 39,330

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

In the matter of Trademark Application Serial No. 76/212,011
Published in the Official Gazette of May 28, 2002, at page TM 1497, Int'l Class 35.
Filed: February 20, 2001
Mark: STAACHI'S CO. 1996 & DESIGN

<p>SINCLAIR OIL CORPORATION</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>SUMATRA KENDRICK</p> <p style="text-align: center;">Applicant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p style="text-align: right;">Opposition No. 152,940</p> <p style="text-align: center;">OPPOSER'S MOTION TO EXTEND DISCOVERY AND TRIAL PERIODS</p>
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Opposer Sinclair Oil Corporation ("SINCLAIR" or "Opposer"), by the undersigned counsel, respectively moves for the discovery and trial periods to be extended by three (3) months from the date the Trademark Trial and Appeal Board ("TTAB") requires Applicant Sumatra Kendrick ("Applicant") to submit its delinquent discovery responses or, in the alternative, from the date of the TTAB's decision on Opposer's Motion to Compel filed contemporaneously herewith. This extension is necessary due to Applicant's refusal to produce the requested discovery.

08/21/2003 TTAB

BACKGROUND

The TTAB established a schedule for these proceedings that was mailed to the parties on September 23, 2002. In the original scheduling order the six (6) month discovery period was set to open on October 13, 2002 and close on April 11, 2003. On January 23, 2003, because Applicant's attorneys withdrew from representation, the TTAB stayed all discovery and trial periods to allow Applicant an opportunity to obtain new representation. On May 6, 2003, the TTAB extended all discovery and trial dates, setting a new discovery deadline of August 15, 2003. This deadline was shorter than the normal six (6) month length of a discovery period.

Nevertheless, Opposer served discovery requests on Applicant on June 6, 2003, one month after the opening of the reset discovery period. Opposer's discovery responses were due by July 6, 2003. Applicant served its Responses to Opposer's discovery on July 5, 2003. On that same day, Applicant contacted Opposer's counsel to ask for a one month extension of time to respond to the written discovery requests. Because of the looming August 15, 2003 discovery deadline, Opposer requested that Applicant produce the requested responses in accordance with the schedule set by the TTAB.

As addressed in Opposer's Motion to Compel submitted contemporaneously herewith, Applicant's responses are wholly deficient and, to date, Applicant has failed to produce any discovery materials, including even non-confidential and non-privileged materials, to Opposer in spite of Opposer's requests that Applicant supplement the discovery responses. Applicant has been unresponsive to Opposer's attempts to resolve the discovery dispute or to move the discovery in this case forward as discussed in detail in Opposer's Motion to Compel. Opposer has attempted numerous times by way of telephone calls, various correspondence and electronic mail to contact Applicant. Opposer has not received any response to its multiple requests for production of written discovery by Applicant, nor has Opposer received any response to

08/22/2003 TTAB

Opposer's multiple requests that the parties meet and confer to discuss the issues. Discovery is set to close on August 15, 2003.

Because Opposer has not received sufficient written discovery responses or documents from Applicant Opposer is unable to take deposition testimony in this matter or otherwise effectively prepare for and meet the pending deadlines currently set by the TTAB.

CONCLUSION

As a result of Applicant's failure to produce the requested discovery, Opposer requests the discovery and testimony periods be extended by three (3) months from the date the TTAB requires Applicant to submit its delinquent discovery responses or, in the alternative, from the date of the TTAB's decision on Opposer's Motion to Compel. The additional time is necessary for the TTAB to consider and rule on Opposer's Motion to Compel and for Opposer to continue with discovery once it receives complete responses and discovery materials from Applicant. Applicant is acting *pro se* and it is likely that the discovery process will require this extra time.

Respectfully submitted this 13th day of August, 2003.



John C. Stringham, Reg. No. 40,831

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Attorneys for Opposer
SINCLAIR OIL CORPORATION

08/11/2003TTAB

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER'S MOTION TO EXTEND DISCOVERY AND TRIAL PERIODS** was served upon the Applicant, Sumatra Kendrick, by mailing a true and correct copy thereof by Express Mail, postage pre-paid, this 13th day of August, 2003, in an envelope addressed as follows:

Sumatra Kendrick
11760 San Pablo Ave. #3-202
El Cerrito, CA 94530



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