

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: August 2, 2006

Opposition No. 91155015

Spencer Distributing L.P. and
Jerry Spencer L.P.

v.

RaceTrac Petroleum, Inc.

Jyll S. Taylor, Attorney:

On August 23, 2005, opposer submitted a copy of the memorandum decision of the United States District Court for the Northern District of Texas granting partial summary judgment to opposer. Specifically, the court found that applicant's trade dress was functional, was not inherently distinctive, and had not acquired distinctiveness.

In view thereof, applicant is allowed until **thirty days** from the mailing date of this order to show cause why judgment should not be entered against it in accordance with the decision of the District Court, failing which judgment will be entered against applicant.

Proceedings remain otherwise suspended.

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