



James A. Zellinger
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TTAB

December 29, 2004

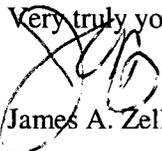
Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., v. Syngenta Participations AG.*
Consolidated Opposition Nos: 157,206 & 159,578

Dear Sirs:

Please find enclosed Applicant's APPLICANT'S RESPONSE TO OPPOSERS' MOTION TO STRIKE pertaining to the above-referenced opposition. Please file in conjunction with same.

Thank you for your assistance with this matter.

Very truly yours,

James A. Zellinger

JAZ/sk
Encl.



01-03-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #74

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

TOYOTA JIDOSHA KABUSHIKI KAISHA)	
d/b/a TOYOTA MOTOR CORPORATION,)	
)	
Opposer)	Serial No.: 78/145,546
)	
v.)	Filed: July 19, 2002
)	
SYNGENTA PARTICIPATIONS AG)	Mark: LEXUS
)	
Applicant.)	

TOYOTA JIDOSHA KABUSHIKI KAISHA)	
d/b/a TOYOTA MOTOR CORPORATION,)	
)	
and TOYOTA MOTOR SALES, U.S.A., INC.)	
)	
Opposers)	Serial No.: 78/185,538
)	
v.)	Filed: Nov. 15, 2002
)	
SYNGENTA PARTICIPATIONS AG)	Mark: LEXXUS
)	
Applicant.)	

APPLICANT'S RESPONSE TO OPPOSERS' MOTION TO STRIKE

Applicant would oppose Opposers' Motion To Strike Applicant's Surreply on the grounds that its submission was absolutely necessary to address the inaccuracies in Opposer's Reply and would therefore move for this Board to deny Opposers' request.

Opposers in their Reply seeking to extend the discovery period and to reset the scheduling order made a number of misrepresentations to the Board. The major

misrepresentation was that Opposers had provided Applicant with all of the pleadings of the legal proceedings involving the mark and Opposers as had been requested by Applicant. This was untrue. The attached letter (Ex. 1) from Opposers' counsel specifically indicates that Opposers had NOT produced the documents as sought by Applicant and further indicates only insignificant pleadings were produced (Ex.1).

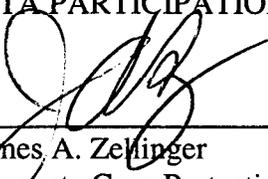
Opposers also misrepresented that they were awaiting production from Applicant. This was the alleged basis for Opposers' request to reset the scheduling order. This was also untrue.

To date, Opposers have failed to correct their misrepresentations to the Board.

It should be further noted that, in the last eight (8) weeks since Opposers' request to reset the dates, Opposers have not sought to undertake any discovery or supply Applicant with the overdue production of those materials requested by Applicant.

APPLICANT
SYNGENTA PARTICIPATIONS AG

By: _____


James A. Zehinger
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410 Swing Road
Greensboro, NC 27409
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CERTIFICATE OF SERVICE

I, JAMES A. ZELLINGER, do hereby certify that I have mailed a copy of the above and foregoing APPLICANT'S OPPOSITION TO OPPOSERS' MOTION TO STRIKE APPLICANT'S SURREPLY to the attorney of record as listed below by placing a copy of same in the U. S. Mail, properly addressed and postage prepaid, to:

David J. Kera
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

on this the 29 day of December, 2004.



James A. Zellinger

EXHIBIT 1



December 9, 2004

James A. Zellinger, Esquire
Syngenta Participation AG
410 Swing Road
Greensboro, NC 27409

ATTORNEYS AT LAW
DAVID J. KERA
(703) 412-6456
DKERA@OBLON.COM

Re: *Toyota Jidosha Kabushiki Kaisha, t/a Toyota
Motor Corporation and Toyota Motor Sales,
U.S.A., Inc. v. Syngenta Participations AG*
Consolidated Oppositions No.: 91/157,206 and 91/159,578
Mark: LEXUS V. LEXUS
Our Ref: 238096US-213-21

Dear Mr. Zellinger:

I received your letter dated December 3, 2004.

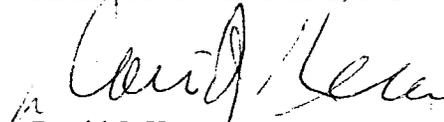
We produced the following pleadings from the *Aliments Lexus, Inc.* case on May 28,
2004:

Notice of Rule 30(b)(6) Deposition to Plaintiffs (T-012303-T-012309)
Plaintiff's Rule 26(a)(1) Initial Disclosures (T-012319-T-012322)
Defendant's Rule 26(a) Initial Disclosures (T-012323-T-012325)
Answer of Defendants (T-012352-T-012360)
Reply Memorandum in Support of Plaintiff's Motion to Strike Jury Demand
(T-012857-T-012861)

We recently have received and will produce before the end of the year additional
pleadings from *Aliments Lexus, Inc.*

Sincerely yours,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



David J. Kera

DJK/ACS/ojb {I:\atty\Djk\213-238096US-ltr.doc}