

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

Mailed: June 27, 2006

Opposition No. 91157206
91159578

Toyota Jidosha Kabushiki
Kaisha, t/a Toyota Motor
Corporation and Toyota Motor
Sales, USA, Inc.

v.

Syngenta Participations AG

Linda Skoro, Interlocutory Attorney

This case now comes up on applicant's motion to compel opposer's discovery responses, filed October 28, 2005. Opposer has responded.

In its motion, applicant alleges that opposer has "failed to produce requested and relevant materials on the grounds that Applicant's counsel is 'in-house' counsel and refuses to produce materials pursuant to Applicant's discovery requests." (Brief at 1). In response, opposer states that pursuant to the Board's order of September 20, 2005, opposer is willing to submit trade secret/commercially sensitive information only to outside counsel for Syngenta Participations AG, that Mr. Zellinger's status as in-house/outside counsel was considered in that order through applicant's attempt to alter the Board's standard

protective agreement, and the Board's standard order was imposed.

Because this issue¹ has effectively been considered by the Board, applicant's motion to compel is more in the nature of a motion for reconsideration of the status of Mr. Zellinger and Syngenta. The Board declines to do so. Further, the motion to compel is denied as it merely attempts to clarify that Mr. Zellinger's status and justify disclosure to him and not is a genuine motion to compel.

Accordingly the motion to compel is denied and trial dates are reset as indicated below.

Discovery period to close:	CLOSED
30-day testimony period for party in position of plaintiff to close:	9/1/2006
30-day testimony period for party in position of defendant to close:	10/31/2006
15-day rebuttal testimony period to close:	12/15/2006

¹ As for the status of Mr. Zellinger's relationship to Syngenta, while not conclusively determined, opposer's concerns seem genuine, are supported and there appears to be sufficient doubt as to closeness of the relationship that Mr. Zellinger may be deemed in-house counsel. Opposer has stated that it has not objected to producing the confidential information to Mr. Zellinger, per the agreement, but not the trade secret information. If applicant will appoint outside counsel for the purpose of receiving trade secret information then opposer is willing to disclose its trade secret information to them.