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December 27, 2006

TTAB

78, 157, 159

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 Sir or Madam:

Please find enclosed APPLICANT'S RESPONSE TO OPPOSERS' REQUEST FOR RESET OF SCHEDULING ORDER. Please file in conjunction with the above-captioned opposition.

Thank you for your assistance with this matter.

Very Truly Yours,



James A. Zellinger
Trademark Counsel

JAZ/sk
encl.

01-03-2007

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

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)

v.)

SYNGENTA PARTICIPATIONS AG)

Applicant.)

Serial No.: 78/145,546

Filed: July 19, 2002

Mark: LEXUS

TOYOTA JIDOSHA KABUSHIKI KAISHA)
d/b/a TOYOTA MOTOR CORPORATION,)

and)

TOYOTA MOTOR SALES, U.S.A., INC.)

Opposers)

v.)

SYNGENTA PARTICIPATIONS AG)

Applicant.)

Serial No.: 78/185,538

Filed: Nov. 15, 2002

Mark: LEXXUS

APPLICANT'S RESPONSE TO OPPOSERS' REQUEST
FOR RESET OF SCHEDULING ORDER

Applicant would object to Opposers' request for additional time and request to reset the time periods within the Scheduling Order. While the Interlocutory Attorney in her Order of December 5, 2006 , implies that both parties have been filing excessive motions in this matter, Opposers have filed the vast majority of motions seeking extensions and reset, and, further, caused Applicant to file responses or other motions to compel due to Opposers delaying tactics. This is yet another request to extend this matter.

I. BOARD'S ORDER

The Board's Order of December 5, 2006, specifically states that "...no further motions will be considered" (at p.2). Despite this specific instruction to the contrary, Opposers whose counsel and clients were allegedly inconvenienced and unavailable in August of this year (see Opposers' prior motion to reset) have again asked for the resetting of the testimony period. This request is in direct contravention of the Board's Order.

II. FOURTH RESET

The underlying request herein, if granted, would be the fourth reset caused by Opposers. Any resetting of the dates set in the scheduling order will reward Opposers for their dilatory tactics and permit them to obtain another reset due to said actions. None of the reasons offered by Opposers for resetting the period warrant granting their repeated request.

Opposers' counsel consists of a very large firm with an extremely high number of attorneys therein and Opposers are very large corporations with a large amount of qualified personnel to offer testimony. Furthermore, the time of Opposers' *so called* unavailability is only a fraction of the testimony periods already set. Furthermore, notice of the current dates could not or should not have been a surprise in light of Opposers' prior (August, 06) last minute request. This request appears to be one for the convenience of Opposers' and its counsel rather than one of need.

III. PREJUDICE TO APPLICANT

Opposers' request as well as their persistent conduct of delay and obstruction, has and will continue to harm Applicant by preventing the launch and use of its mark in commerce. The harm has risen from the inability of Applicant to market its goods under its mark due to the opposition and challenge to Applicant's rights. In addition, any reset will likely occur when Applicant's sole counsel may be unavailable due to the International Trademark Association Conference (April 27 – May 4).

IV. DILATORY TACTICS

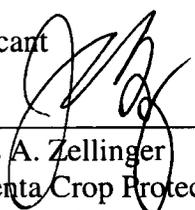
It is obvious by examination of earlier filed request of Opposers that they have adopted a course of delay and obstruction. This is demonstrated by last minute request in August for resetting, followed by this request. Coupled with the action taken by Opposers in various federal court proceedings, of which the Board is aware from previous motions, there is not any question that the this request is yet another delaying tactic.

V. CONCLUSION

Applicant would further move this Board that Opposers be ordered to cease their dilatory tactics. Applicant would also move this Board to deny Opposers' request.

Respectfully submitted,

Applicant

By 

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