

TTAB

James A. Zellinger
Trademark Counsel

Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

The Syngenta logo features the word "syngenta" in a bold, lowercase, sans-serif font. A small, stylized leaf icon is positioned above the letter 'g'.

Tel 336-632-7835
Fax 336-632-2012
e-mail:
jim.zellinger@syngenta.com

February 14, 2007

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: LEXUS; *Opposition Nos: 157,206 & 159,578;*
Serial No. 78/145,546

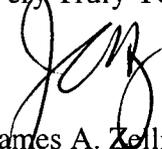

02-21-2007
U.S. Patent & TMO/TM Mail Root Ct. #11

Dear Sir or Madam:

Please find enclosed APPLICANT'S RESPONSE TO OPPOSERS' MOTION TO COMPEL. 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.

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.)

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

and)

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

Opposers)

v.)

SYNGENTA PARTICIPATIONS AG)

Applicant.)

Opposition No. 157, 206

Serial No.: 78/145,546

Filed: July 19, 2002

Mark: LEXUS



02-21-2007

U.S. Patent & TMO/TM Mail Root Dt. #11

Serial No.: 78/185,538

Filed: Nov. 15, 2002

Mark: LEXXUS

APPLICANT'S RESPONSE TO OPPOSERS' MOTION TO COMPEL

Applicant would object to Opposers' motion to compel. 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.

Opposers have consented to this late response by Applicant due to the various discussions that have occurred between them.

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. COMPLIANCE WITH FRCP 34

Applicant has certainly complied with F.R.Cv.P. 34(b) by specifically addressing Opposers' request for clarification in a letter from Applicant's counsel on January 11, 2007 (Ex.1; see also Ex. 2, letter of December 27, 2006 from Applicant's counsel) which Opposers fail to identify in their motion despite it being sent before Opposers' motion. This letter alone renders Opposers' motion moot.

Each document is identified with the various requests made by Opposers. It should be further noted that very few of the documents produced by Applicant are kept by it in "the normal course of business" as they were obtained as a result of these proceedings and would not require compliance in the manner demanded by Opposers. Nonetheless, Applicant has responded to Opposers' demand and each document produced has been identified as to the specific request made.

Opposers' motion is more appropriately a challenge to the admissibility of the documents offered by Applicant and is not a proper basis for a motion to compel.

III. 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 yet another last minute 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.

IV. CONCLUSION

Applicant would move this Board to deny Opposers' request.

WHEREFORE, it is respectfully requested that Opposers' request for any extension be denied.

Applicant

By:



James A. Zellinger
Trademark Counsel
Syngenta Crop Protection, Corp.
410 Swing Rd.
Greensboro, N.C.27409

CERTIFICATE OF SERVICE

I, JAMES A. ZELLINGER, do hereby certify that I have mailed a copy of the above and foregoing Applicant's Response to Opposers' Motion To Compel to Opposers' 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 14 day of Feb., 2007.



James A. Zellinger

EXHIBIT 1



James A. Zellinger
Trademark Counsel

Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Tel 336-632-7835
Fax 336-632-2012
e-mail:
jim.zellinger@syngenta.com

January 11, 2007

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

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 Mr. Kera:

Applicant's in globo production is specifically in response to Opposer's Request For Production Of Documents Nos. 1-4, 8-10, 20-22, 28 and 29, and submitted in response to those specific requests.

Very truly yours,

A handwritten signature in black ink, appearing to read "JAZ", written over the typed name "James A. Zellinger".

James A. Zellinger

EXHIBIT 2



James A. Zellinger
Trademark Counsel

Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Tel 336-632-7835
Fax 336-632-2012
e-mail:
jim.zellinger@syngenta.com

December 27, 2006

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

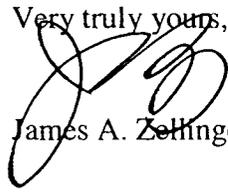
Re: *Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., v. Syngenta Participations AG.*
Consolidated Opposition Nos: 157,206 & 159,578

Dear Mr. Kera:

In am in receipt of your letter of December 15, 2006.

“In globo” means that the materials produced correspond to all of the requests made by Opposers. Since there are only thirty-eight documents, it should not be an onerous task to avoid confusing them.

Very truly yours,


James A. Zellinger

JAZ/sk