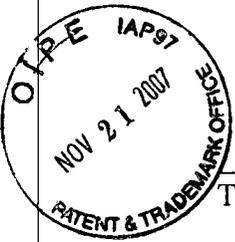


TTAB

Attorney Docket No.: 238096US-21

**TTAB
NO FEE**



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

Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation,)	CONSOLIDATED OPPOSITION
)	
-and-)	Opposition No.: 91/157,206
)	U.S. Appln. Serial No.: 78/145,546
)	Mark: v. LEXUS
Toyota Motor Sales, U.S.A., Inc.,)	
)	
Opposers)	
)	
v.)	Opposition No. 91/159,578
)	U.S. Appln. Serial No.: 78/185,538
Syngenta Participations AG,)	Mark:: v. LEXXUS
)	
Applicant)	

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

**OPPOSERS' RESPONSE TO APPLICANT'S REQUEST TO
WITHDRAW APPLICATIONS**

Opposer, Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation, hereby comments on, and objects to, the second sentence in the first paragraph of Applicant's Request to Withdraw Applications. That sentence reads as follows:

"It is further submitted that the above parties [Toyota and Syngenta Participations AG] have resolved their dispute



11-21-2007

and have previously moved to dismiss the above oppositions.”

Toyota and Syngenta have not previously moved to dismiss the above oppositions and Toyota had no obligation to move to dismiss the oppositions.

On the contrary, Syngenta had the unqualified obligation and duty to abandon the two applications.

Toyota and Syngenta entered into a Trademark Settlement Agreement, which was signed on behalf of Syngenta on May 21, 2007 by Marian T. Flattery, Head of Global Intellectual Property and Mike Dammann, Global Head of Trademarks, and on behalf of Toyota Jidosha Kabushiki Kaisha on June 22, 2007 by Kenji Esaki, General Manager, Intellectual Property Division, and on behalf of Toyota Motor Sales, U.S.A., Inc., on June 6, 2007 by Martin Smith, Managing Counsel.

The Agreement, by its terms, is to be kept confidential, but Paragraph 4 provided that:

“SYNGENTA shall ... instruct all of its attorneys and trademark representatives in every country, including but not limited to the United States, where a LEXUS MARK is registered or is the subject of an application for registration, to abandon every application for a LEXUS MARK and to cancel every existing registration for a LEXUS MARK.”

The condition precedent to the abandonment was satisfied on August 6, 2007.

The Eighth recital of the Agreement provides:

“AND WHEREAS, the trademarks LEXUS and LEXXUS, as well as any mark which includes the term LEXUS or LEXXUS, shall be identified collectively in this Agreement as the “LEXUS MARKS.”

Paragraph 1 of the Agreement specifically provides:

“The recitals of this Agreement, as expressed above, are adopted as substantive provisions of this Agreement.”

The mark LEXUS of Application Serial No. 78/145,546 and the mark LEXXUS of Application Serial No. 78/185,538 are, by the express terms of the Agreement, LEXUS MARKS. There is no possible question about the obligation of Syngenta to abandon the two United States applications.

The Agreement does not contain any term or provision for Toyota to dismiss or join in the dismissal of the consolidated opposition. The only obligation in the Agreement pertaining to the resolution of the consolidated opposition and the two applications which are the subject of the consolidated opposition is the provision in Paragraph 4 requiring Syngenta to abandon the applications. Any statement or implication to the contrary is wholly incorrect.

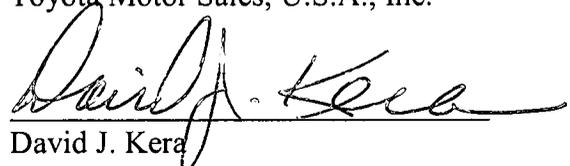
Toyota hereby moves, pursuant to 37 C.F.R. § 2.35 that, as a result of the abandonment of the LEXUS and LEXXUS applications without the written consent of

Opposer, judgment should be entered against Syngenta Participations AG.

Respectfully submitted,

Toyota Jidosha Kabushiki Kaisha,
t/a Toyota Motor Corporation and
Toyota Motor Sales, U.S.A., Inc.

By:



David J. Kera

Jordan S. Weinstein

Oblon, Spivak, McClelland,
Maier, & Neustadt, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax: (703) 413-2220

email: tmocket@oblon.com

Date: November 21, 2007

DJK/ojb {I:\ATTY\DJK\213-238096US-RES.DOC}

7 4

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSERS' RESPONSE TO APPLICANT'S REQUEST TO WITHDRAW APPLICATIONS** was served on counsel for Applicant, this 21st day of November, 2007, by sending same via First Class mail, postage prepaid, to:

James A. Zellinger, Esquire
Syngenta Crop Protection
Trademark Counsel
410 Swing Road
Greensboro, NC 27409