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

LANCO CORPORATION Opposer, v. GEBR.HOFFMAN AG Applicant.	)	Opp. No. 91/154,043 Ser. No. 75/545,553 Mark: Miscellaneous Design

OPPOSER'S RESPONSE TO APPLICANT'S REQUEST FOR EXTENSION OF TIME TO FILE RESPONSES TO OPPOSER'S DISCOVERY REQUESTS

Opposer Lanco Corporation, by and through its undersigned attorney, hereby responds to applicant's request dated August 5, 2004, for an additional extension of time to file responses to Opposer's discovery requests. Applicant has indicated that the request "is being sought ... not for the purpose of further delay." However, after one looks at the history of this proceeding, it is difficult to agree with applicant's conclusion.

On July 3, 2003, opposer served applicant with Opposer's First Set of Interrogatories. On July 7, 2003, opposer served applicant with Opposer's First Set of Requests for Production of Documents. On July 9, 2003, opposer served applicant with Opposer's Second Set of Requests for Production of Documents.

After applicant failed to respond to the discovery requests and failed to respond to the opposer's motion to compel, the Board issued an order dated December 5, 2003, granting the opposer's motion to compel and ordered the applicant to respond without objection to opposer's first set of interrogatories and first and second sets of document requests. Instead of complying with the Board's order, the applicant filed a motion for reconsideration and, in the alternative a

request for extension of time to respond, on December 31, 2003. By order dated July 9, 2004, the motion for reconsideration was denied and the applicant was once again ordered to respond without objection to the opposer's discovery requests within 30 days.

This time, when the deadline approached, the applicant's attorney filed the subject extension request rather than serve opposer with responses without objections as ordered twice by the Board. The applicant's reasons for the extension request are "the Board did not rule on the pending motions for more than six months, which is an extensive delay period, and the Board's response came at the beginning of Hoffman's vacation period." The applicant's attorney initially criticizes and places blame on the Board. Then he states, "The requested extension is necessary to allow time for the Principals to return from holiday and assemble the documents and things for production to Opposer."

The applicant is under the mistaken impression that it did not have to commence preparing responses until after the Board issued a decision on its motion for reconsideration. The applicant was under an obligation to prepare responses and assemble the documents and things after receiving the initial discovery requests. What has the applicant been doing for the past year?

When a party files a motion to extend a due date, such motion must be supported by a showing of good cause. Opposer does not believe that applicant has accomplished this and believes that this extension request should be denied. However, to prevent any further delay, opposer will consent to applicant's request to extend its time 30 days to comply with the Board's order. Their complete responses without objection will be due on or before September 7, 2004.

In addition, opposer respectfully requests the Board to instruct the applicant that it will not grant any further extension requests filed by the applicant without the opposer's consent.

Respectfully submitted,

LANCO CORPORATION

By _____

Date: August 18, 2004

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing OPPOSER'S RESPONSE TO APPLICANT'S REQUEST FOR EXTENSION OF TIME TO FILE RESPONSES TO OPPOSER'S DISCOVERY REQUESTS was served on the Applicant by forwarding same via First Class Mail, postage prepaid, to Applicant's counsel, J. Stephen Simms, Esq., Simms Showers LLP, 20 S. Charles Street, Suite 702, Baltimore, Maryland 21201, this 18th day of August, 2004.

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Kathryn Jennison Shultz