

TOSHIDA METAL INDUSTRY CO.,
LTD.,

Opposer,

vs.

GLOBAL DECOR, INC.,

Applicant.

)
) TTAB Attorney: Nancy O'Melco
) (ext. 239)
)

) Opposition No. 91/156,618
) Appln. Serial No. 76/179,674
) Mark: GLOBAL DECOR
)

**APPLICANT'S RESPONSE TO OPPOSER'S REQUEST FOR EXTENSION OF TIME
TO RESPOND TO APPLICANTS MOTION FOR SUMMARY JUDGMENT**

To the extent Opposer needs an additional 30 days to file a Response to Applicant's Motion for Summary Judgment, Applicant has no objection provided that the Order granting the extension also resets Applicant's reply date to January 19, 2004.

Applicant did not consent to Opposer's unilateral 30 day extension. In fact, on September 23, 2003 Applicant advised Opposer that their 30 day extension would move Applicant's reply into a particularly hectic period. Applicant advised Opposer that assuming Opposer would consent to move Applicant's reply date back to January 19, 2004, Applicant would consent to the extension. Opposer on September 24, advised Applicant in an e-mail that it would file the agreed motion resetting the response and reply dates. A copy of the e-mails evidencing the communications are attached as Exhibit A.

Opposer in a further communication without reference to its September 24th responsive e-mail advised applicant on the 25th that it would be filing a supposedly consented to Request for Extension of Time without advising the Board of the reciprocal extension which it agreed to give Applicant. Applicant advised Opposer that the separate Motion was not acceptable and in fact

10/10/2003 11:48

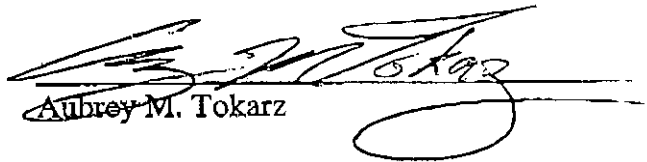
CERTIFICATE OF SERVICE VIA FACSIMILE

I hereby certify that the attached correspondence is being sent via facsimile to the parties listed below:

BOX - TTAB - NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513
Facsimile (703) 308-9333

Jeffrey H. Kaufman, Esq.
Amy C. Sullivan, Esq.
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
Facsimile (703) 413-2220

on this 6th day of October, 2003.


Aubrey M. Tokarz

10/10/2003 11:48

Conte, James

From: ASULLIVAN@oblon.com
 Sent: Wednesday, September 24, 2003 1:55 PM
 To: jconte@btlaw.com
 Cc: JKAUFMAN@oblon.com
 Subject: RE: Yoshida Metal Industry Co., Ltd. v. consnet means w Global Decor



X-ALTERNATIVE:HT
M (2 KB)

Mr. Conte:

I do not believe there was any misunderstanding. We will file the consented motion resetting both dates as you indicate, and provide you with a copy.

Thank you,

Amy Sullivan Cahill

Amy Sullivan Cahill, Esquire
 Oblon, Spivak, McClelland, Maier & Neustadt, PC
 1940 Duke Street
 Alexandria, Virginia 22314
 703.412.6464 Direct Dial
 703.413.2220 Fax

>>> "Conte, James" <jconte@btlaw.com> 09/24/03 12:12PM >>>
 You misunderstand. We will only agree to the 30 day extension provided you consent to move our reply date back to January 19. I use the term consent to mean we will file an agreed motion resetting the response and reply dates. If you do not want to file an agreed motion resetting the dates than you have not given us your consent and we do not consent to your extension.

Sincerely,

J Conte

-----Original Message-----

From: ASULLIVAN@oblon.com [mailto:ASULLIVAN@oblon.com]
 Sent: Wednesday, September 24, 2003 10:24 AM
 To: jconte@btlaw.com
 Cc: JKAUFMAN@oblon.com
 Subject: Re: Yoshida Metal Industry Co., Ltd. v. Global Decor

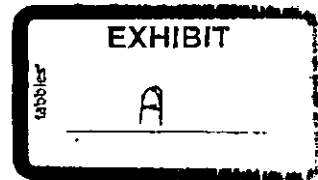
Mr. Conte:

Thank you for consenting to a thirty day extension of the period for Opposer to respond to Applicant's Motion for Summary Judgment in the above matter. In exchange, we agree to object to an extension of Applicant's time for reply until January 19, 2003, to the extent that the extension is permitted by the Board under Trademark Rule 2.127.

Amy Sullivan Cahill

>>> "Conte, James" <jconte@btlaw.com> 09/23/03 08:35PM >>>

I received your voice mail message requesting an additional 30 days to respond to our motion for Summary Judgment. Granting the request will move my reply date into a particularly hectic period. Assuming you will consent to move our reply date back to January 19, 2004 we will consent.



Amy Sullivan Cahill

>>> "Conte, James" <jconte@btlaw.com> 09/23/03 08:35PM >>>

I received your voice mail message requesting an additional 30 days to reply to our motion for Summary Judgment. Granting the request will move my reply date into a particularly hectic period. Assuming you will consent to move our reply date back to January 19, 2004 we will consent.

10/19/2003 11:48

10/10/1003TTAB

Conte, James

From: Conte, James
Sent: Wednesday, October 01, 2003 2:07 PM
To: 'ASULLIVAN@oblon.com'
Subject: RE: Yoshida Metal Industry Co., Ltd. v. consent means w Global Decor

Dear Ms. Sullivan,

As we previously advised you by email, we are not withholding any documents based on objections raising the need for a protective order. As stated, we consider Yoshida's offer to treat all documents produced under the protection of the Attorneys Eyes Only designation acceptable.

We disagree with Yoshida's position concerning Rule 56(f).

Sincerely,

J. Conte

-----Original Message-----

From: ASULLIVAN@oblon.com [mailto:ASULLIVAN@oblon.com]
Sent: Tuesday, September 30, 2003 12:23 PM
To: jcont@btlaw.com
Cc: JKAUFMAN@oblon.com
Subject: RE: Yoshida Metal Industry Co., Ltd. v. consent means w Global Decor

Mr. Conte:

In preparing our reply to Applicant's motion for summary judgment, we have again reviewed Applicant's responses to Opposer's First Set of Interrogatories and First Request for Production of Documents. We continue to find these responses to be inadequate, particularly with respect to Applicant's refusal to produce any responsive documents to date, notwithstanding the parties' previous agreement to treat confidential documents "attorneys eyes only" until a protective order could be agreed on.

Given the insufficient information and documentation provided, we have no choice but to request an opportunity for further discovery and for an Order from the Board directing Applicant to produce the information and documents requested, in order adequately to respond to Applicant's Motion for Summary Judgment. Unless you are able to supplement these responses by our deadline of October 1, 2003, we will seek the Board's assistance and move to compel Applicant's responses. Of course, filing a motion under Rule 56(f) would obviate the need for a request for extension of time to respond to the pending motion.

Amy Sullivan Cahill

>>> "Conte, James" <jcont@btlaw.com> 09/29/03 06:24PM >>>

Your motion should include the resetting of the reply dates. My email consented to "an agreed motion resetting the response and reply dates". Additionally your own responsive email on the 24th confirmed you would file a single motion.

Separate motions create needless duplication, work and possible confusion for the TTAB.

You should file the single motion as you stated you would in your 24th email.

Sincerely,

J. Conte.

-----Original Message-----

From: ASULLIVAN@oblon.com [mailto:ASULLIVAN@oblon.com]
Sent: Thursday, September 25, 2003 11:10 AM
To: jcont@btlaw.com
Cc: JKAUFMAN@oblon.com
Subject: RE: Yoshida Metal Industry Co., Ltd. v. consent means w Global Decor



10/10/1003TTAB

Mr. Conte:

We attach consented requests to extend Opposer's deadline to respond to Applicant's Motion for Summary Judgment until November 1 and to extend Applicant's time to file a reply in support of Applicant's Motion for Summary Judgment until January 19, 2004, as agreed.

If you do not object, we will proceed to file Opposer's request with the TTAB tomorrow (with a service copy to you). You may sign and file the Applicant's request at your convenience.

Thank you,

Amy Sullivan Cahill

>>> "Conte, James" <jconte@btlaw.com> 09/24/03 12:12PM >>>

You misunderstand. We will only agree to the 30 day extension provided you consent to move our reply date back to January 19. I use the term consent to mean we will file an agreed motion resetting the response and reply dates. If you do not want to file an agreed motion resetting the dates than you have not given us your consent and we do not consent to your extension.

Sincerely,

J Conte

-----Original Message-----

From: ASULLIVAN@oblon.com [mailto:ASULLIVAN@oblon.com]
Sent: Wednesday, September 24, 2003 10:24 AM
To: jconte@btlaw.com
Cc: JKAUFMAN@oblon.com
Subject: Re: Yoshida Metal Industry Co., Ltd. v. Global Decor

Mr. Conte:

Thank you for consenting to a thirty day extension of the period for Opposer to respond to Applicant's Motion for Summary Judgment in the above matter. In exchange, we agree not to object to an extension of Applicant's time for reply until January 19, 2004, to the extent that the extension is permitted by the Board under Trademark Rule 2.127.

Amy Sullivan Cahill

>>> "Conte, James" <jconte@btlaw.com> 09/23/03 08:35PM >>>

I received your voice mail message requesting an additional 30 days to respond to our motion for Summary Judgment. Granting the request will move my reply date into a particularly hectic period. Assuming you will consent to move our reply date back to January 19, 2004 we will consent.

BARNES & THORNBURG
btlaw.com

Suite 4400
One North Wacker Drive
Chicago, Illinois 60606-2809
(312) 357-1313

Fax Number: (312) 759-5646

FAX COVER SHEET

NAME	COMPANY NAME	TELECOPY NO.
TO: Nancy O'Melco	Trademark Trial and Appeal Board	703 308 8333

FROM: James B. Conte

DIRECT DIAL: 312-214-4805

E-MAIL:

DATE: October 6, 2003

TIME SENDING: _____

NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 8

If you have difficulty receiving this Fax, please call Barnes & Thornburg at (IKON) 312-214-8823 and ask for _____

91/156618

Response once received: Please deliver immediately.

CLIENT# 926536
MATTER# 92281

Original to follow by mail
 Original will not follow by mail

CONFIDENTIALITY NOTICE: This message is for the exclusive use of the individual or entity to which it is addressed and is confidential. If you are not the addressee or an employee or agent of the addressee responsible for delivering it to the addressee, please do not read, use, disclose, copy or distribute this message and do not take any action in reliance upon it. If you have received this message in error, please notify us immediately by telephone (collect) to arrange for its return. We do not intend to waive any attorney-client or work product privilege by the transmission of this message.

Chicago Elkhart Fort Wayne Grand Rapids Indianapolis South Bend Washington, D.C.

10/10/2003 11:48