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Filing date: **02/24/2006**

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

Proceeding	91163527
Party	Plaintiff Yoshida & Company, Ltd. Yoshida & Company, Ltd. 17-6 Higashikanda, 1-chome Chiyoda-ku, Tokyo, 100-8385 JAPAN
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Submission	Opposition/Response to Motion
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Date	02/24/2006
Attachments	2006 02 24 Opposition to extension.pdf (4 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

_____)	
YOSHIDA & COMPANY, LTD.)	Opposition No. 91163527
)	
Petitioner,)	Appl. Ser. No. 76/393,498
)	
v.)	Mark: PORTER and Design
)	
PORTER INTERNATIONAL CO., LTD.)	Filed: April 9, 2002
)	
Registrant.)	Published: August 10, 2004
_____)	

**OPPOSER’S MEMORANDUM IN OPPOSITION TO APPLICANT’S MOTION
FOR AN EXTENSION OF TIME TO RESPOND TO DISCOVERY**

Opposer Yoshida & Company, Ltd. (hereinafter, “Yoshida” or “Opposer”) hereby opposes Applicant’s Motion For Extension of Time to Respond to Discovery. This opposition proceeding has been pending for over a year, yet the parties have not exchanged a single discovery response or document. To accommodate Applicant, Opposer granted Applicant several extensions of time to respond to Opposer’s initial discovery requests. Further extensions of time for this initial exchange of discovery information are not warranted. Opposer is entitled to have this matter proceed so that its rights regarding the relevant PORTER trademarks can be determined. Opposer respectfully requests the Board to deny Applicant’s motion.

Demonstrating ample willingness to cooperate with Applicant, Opposer previously granted three separate extensions of time requested by Applicant. These extensions include a 60-day extension in October, a 30-day extension in December, and a 30-day extension in January. The parties also agreed to two mutual extensions of time prior to the extensions unilaterally requested by Applicant. As a result of these

extensions, Applicant's responses were due February 21, 2006. Opposer's corresponding responses to Applicant's discovery requests were due one week later.

On February 7, 2006, Applicant once again requested an extension of time. This request was premised upon the representation that a settlement proposal was outstanding overseas. On February 10, 2006, counsel for Opposer informed Applicant that Opposer would not agree to any further extensions regardless of any settlement negotiations. Opposer reiterated that it would not grant any further extensions on February 15 and February 16, 2006. Nonetheless, Applicant filed the pending motion for an extension of time on the very date Applicant's responses were due (eleven days after being informed that no further extensions would be granted).

Opposer and Applicant are involved in a number of trademark disputes throughout the world concerning the relevant PORTER marks. Opposer has consistently maintained that any settlement negotiations occurring between the parties do not warrant extensions of time or further delay. Such delays enable Applicant to further impinge upon Opposer's trademark rights and cannot be tolerated by Opposer. Given the delays to the current proceedings and the geographical and language barriers involved in this proceeding, Opposer believes that an extension of the discovery deadline may be necessary as this matter proceeds. To keep the proceeding moving, however, Opposer does not believe any further extensions of time for the initial set of discovery responses should be granted.

Applicant has had nearly nine months to prepare its responses and gather the requested documents. Nowhere in its motion does Applicant provide any justification for its failure to do so. Applicant has had ample opportunity to prepare its responses.

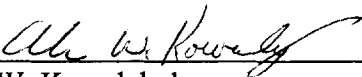
Nothing prevents settlement discussions from proceeding in tandem with this cancellation.¹

Applicant has failed to show good cause for any further extensions and its motion for an extension of time should be denied.

Yoshida & Company, Ltd.

By its Attorneys,

Date: February 24, 2006



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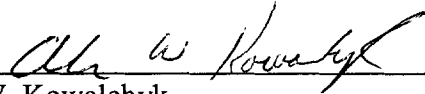
Attorneys for Opposer

¹ Opposer requested an extension of time from Applicant to ensure that the agreed upon discovery schedule, in which Petitioner's responses were due one week after Applicant's, could be maintained regardless of whether this motion is granted or denied. Applicant would not agree to such an extension. This refusal demonstrates that Applicant's motion is not to facilitate settlement, but to improperly modify the agreed upon discovery schedule. (See Opposer's Motion for Extension of Time filed concurrently herewith).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of OPPOSER'S MEMORANDUM IN OPPOSITION TO APPLICANT'S MOTION FOR AN EXTENSION OF TIME TO RESPOND TO DISCOVERY was served upon the following attorney of record for Applicant by First Class Mail, postage prepaid, and also via e-mail this 24th day of February, 2006:

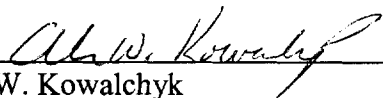
Ms. Ronni S. Jillions
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Alan W. Kowalchyk

CERTIFICATE OF FILING

I hereby certify that the foregoing OPPOSER'S MEMORANDUM IN OPPOSITION TO APPLICANT'S MOTION FOR AN EXTENSION OF TIME TO RESPOND TO DISCOVERY is being filed electronically with the United States Patent and Trademark Office's Electronic System for Trademark Trials and Appeals (ESTTA) on this 24th day of February, 2006.



Alan W. Kowalchyk