

ESTTA Tracking number: **ESTTA351993**

Filing date: **06/09/2010**

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

Proceeding	91193562
Party	Plaintiff Deere & Company
Correspondence Address	ROBERT W. HOKE NYEMASTER GOODE, P.C. ONE GREATAMERICA PLAZA, 625 FIRST STREET SE, SUITE 400 CEDAR RAPIDS, IA 52401 UNITED STATES rwhoke@nyemaster.com
Submission	Other Motions/Papers
Filer's Name	Sarah Gayer
Filer's e-mail	sjgayer@nyemaster.com
Signature	/Sarah Gayer/
Date	06/09/2010
Attachments	motion to suspend.pdf ( 4 pages )(83610 bytes )

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

DEERE & COMPANY,	)	
	)	Opposition No. 91193562
	)	
Opposer,	)	
	)	Serial No.: 77/715,080
v.	)	
	)	Mark: GEAR GATOR
	)	
UNIPAT PRODUCTS, VIRGINIA, LLC,	)	
	)	Published: December 1, 2009
	)	
Applicant.	)	

**OPPOSER'S MOTION TO SUSPEND DISCOVERY PROCEEDINGS, BRIEF INCLUDED**

Pursuant to 37 C.F.R. 2.127, Opposer Deere & Company hereby moves for a suspension of discovery proceedings and in support thereof states:

1. Simultaneous with this Motion, Opposer is filing a motion for summary judgment.
2. Opposer is seeking summary judgment on the grounds that the assignment to Applicant of the intent-to-use GEAR GATOR application violates Section 10 of the Trademark Act, rendering the Application void as a matter of law.
3. If Opposer's summary judgment motion were to be granted, this proceeding would be resolved in its entirety.
4. For good cause, Opposer requests that discovery proceedings be suspended immediately.

5. In particular, Opposer requests that its obligation to respond to Applicant's interrogatories, requests for production, and requests for admission be suspended.

6. Opposer's responses to Applicant's discovery would otherwise be due on June 11, 2010.

7. The outstanding discovery requests do not address the issues raised in Opposer's motion for summary judgment.

8. Many of the outstanding discovery requests relate to Opposer's significant family of GATOR marks. Responding to the outstanding discovery requests would require substantial time and resources.

9. Granting a suspension of discovery would allow the parties to conserve resources while the Board addresses Opposer's dispositive motion.

10. No party would be prejudiced by granting this Motion.

WHEREFORE, Opposer respectfully requests that discovery proceedings be suspended during the pendency of its summary judgment motion.

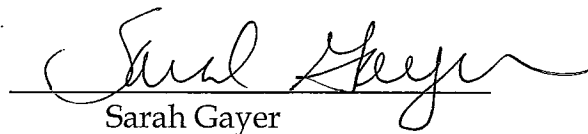
DEERE & COMPANY



Sarah Gayer  
Attorneys for Opposer  
Nyemaster, Goode, West, Hansell  
& O'Brien, P.C.  
One GreatAmerica Plaza  
625 First Street SE, Suite 400  
Cedar Rapids, IA 52401  
Email: sjgayer@nyemaster.com  
Phone: (319) 286-7005  
Fax: (319) 286-7050

ELECTRONIC MAILING CERTIFICATE

I hereby certify that the OPPOSER'S MOTION TO SUSPEND DISCOVERY is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (ESTTA) on this 9<sup>th</sup> day of June, 2010.

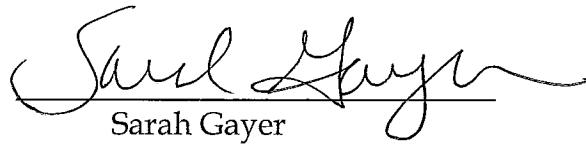


Sarah Gayer

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing OPPOSER'S MOTION TO SUSPEND DISCOVERY has been forwarded, this June 9, 2010 by first class mail and email to:

Angela Holt  
LANIER FORD SHAVER & PAYNE P.C.  
2101 West Clinton Ave., Suite 102  
P.O. Box 2087  
Huntsville, AL 35804

  
Sarah Gayer