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PATENT & TRADEMARK OFFICE

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

PRAMIL S.R.L. (ESAPHARMA), Petitioner,	
vs.	Cancellation No. 92032341
MICHEL FARAH, Registrant.	76058821

PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO REOPEN ITS TESTIMONY PERIOD

Counsel for Petitioner, Pramil S.R.L. (EASAPHARMA), herein responds to yet another delaying motion submitted by the Registrant in this case. The latest Motion now seeks to reopen its testimony period for the purpose of introducing "newly discovered evidence."

The Board should note that these proceedings were instituted nearly six years ago., The Petitioner's testimony was filed October 16, 2004 and its Brief was filed on March 2, 2005. The Defendant filed its Brief on May 2, 2005.

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The case is now ripe for the Oral Hearing which was long ago requested by the Petitioner.

The Defendant here is attempting to overcome its Summary Judgment Motion which was decided adversely to the Defendant in an decision by the Board on July 26, 2007.

The Defendant is once again attempting at this late date to introduce documentation relating to a civil action in Florida in which an order was issued on May 23, 2007, nearly three months ago. This can hardly be deemed as "newly discovered evidence". Also, as the Board noted in its decision on the Summary Judgment Motion, the parties in the civil action are not the same. In this case, Michel Farah is the Registrant (Respondant). Mr. Farah was not a named party in the Civil Action.

The Motion to Reopen is nothing more than a concealed attempt to avoid the adverse decision on the Summary Judgment Motion and it should be dismissed summarily.

Earlier in these proceedings, Registrant sought and was granted the right to take Testimony abroad by written interrogatories. Considerable time and expense were undertaken by the Petitioner to prepare and serve cross-questions and to prepare the witness for these interrogatories to be taken in Milan, Italy. The Registrant never moved forward with the taking of these discovery interrogatories.

Registrant's testimony was originally set to close on November 29, 2004. On the very last day, Registrant filed a Motion for a 30 day extension of time to take its testimony, allegedly to accommodate counsel's schedule. Later, Registrant, again at the very end of its extended period sought a further 60 day extension, stated to be necessary to prepare for a trial which commenced January 18, 2004.

The Motion to Reopen should be denied and an oral hearing date should be immediately scheduled.

Respectfully submitted,

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August 8, 2007

CERTIFICATE OF SERVICE

I certify that a copy of the above Petitioner's Response to Motion to Reopen the Testimony Period was served by first class mail with proper postage affixed this 8thth day of August, 2007 on counsel for Registrant, David M. Rogero, Esq., 2625 Ponce de Leon Boulevard, Suite 280, Coral Gables, FL 33134.

Donald L. Dennison