

TTAB

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

HERA, LLC,)
)
 Opposer,)
) Opposition No. 91161648
 v.)
)
 EC&C TECHNOLOGIES, INC.,)
)
 Applicant.)

TRANSMITTAL LETTER (GENERAL)
(With Certificate of Mailing by Express Mail)

Transmitted herewith is the following document in triplicate:

APPLICANT'S SUPPLEMENTAL REPLY AND DECLARATION OF JOSEPH E.
MUETH

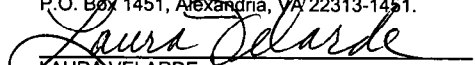
Applicant believes there is no fee due with this communication, however, if there
is a fee due, said insufficiency should be debited to Deposit Account No. 13-4892.

Dated: December 17, 2004



JOSEPH E. MUETH, ESQ.
JOSEPH E. MUETH LAW CORPORATION
225 South Lake Ave., 8th Floor
Pasadena, CA 91101
Telephone: (626) 584-0396
Facsimile: (626) 584-6862

I certify that this document is being deposited on December 17, 2004
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LAURAVELARDE
Dated: December 17, 2004



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APPLICANT'S SUPPLEMENTAL REPLY

On November 29, 2004, Opposer filed "Opposer's Request For Applicant To Respond to Opposer's November 19, 2004 'Redline' Of Applicant's Protective Order" and "Opposer's Response To Applicant's November 19, 2004 Reply In Support Of Its Motion To Compel Discovery".

As the attachments to our pending "Motion To Compel Discovery" show, Applicant EC&C served its Request For Production of Documents" on August 28, 2004. The Request called, inter alia, for the production of a "License Agreement" or "Opposer License" and related follow-on documents (see Notice of Opposition, paragraphs 2, etc.) upon which Opposer relies. When counsel for Opposer claimed that these documents were confidential we tendered a proposed Protective Order to counsel for Hera LLC on October 8, 2004.

Despite our repeated requests, no substantive reply to our Protective Order proposal was received from Opposer until November 19, 2004, more than 40 days later, and 10 days after we filed our pending Motion To Compel Discovery. This alone shows a flagrant disregard for the rules of discovery and hence the ultimate sanction, should be imposed.

Further, Hera's "Redline" Protective Order response of November 19, 2004 is clearly improper and unacceptable. The reasons that this is so are set forth in our Declaration filed herewith. The Redline critically changed the Protective Order to provide that Howard E. Sandler, President and an owner of Opposer Hera LLC, may receive and review all designated Confidential information produced by EC&C. This would render the Protective Order an illusion and a farce. Hera and EC&C are competitors in the field of the technology for the removal of NO_x from the power plant combustion gas effluent. It is absurd to propose that Howard E. Sandler be granted access to EC&C's Confidential information. Mr. Sandler is attempting to use these proceedings for his personal financial benefit. The submission of the "Redline" Protective Order is itself evidence of bad faith and an attempt to abuse the discovery process for nefarious purposes.

Applicant's Motion To Compel Discovery should be granted.

Our originally requested sanction is clearly insufficient in light to Hera's continued abuse and delay of discovery.

Hera's Opposition should be dismissed.

Dated: December 17, 2004

Respectfully submitted,




Joseph E. Mueth, Esquire
Joseph E. Mueth Law Corporation
225 South Lake Avenue, 8th Floor
Pasadena, California 91101

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing **APPLICANT'S SUPPLEMENTAL REPLY** is being served on Opposer this 17th day of December, 2004, by forwarding the same via Express Mail, postage prepaid, addressed to:

Howard E. Sandler
Hera, LLC
23792 Rockfield Blvd., Suite 100
Lake Forest, CA 92630

Dated: December 17, 2004



Joseph E. Mueth, Esquire
Joseph E. Mueth Law Corporation
225 South Lake Avenue, 8th Floor
Pasadena, California 91101

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