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

Proceeding	91174345
Party	Defendant Toytrackerz LLC
Correspondence Address	TOYTRACKERZ LLC 302 SOUTH LOWMAN STREET FORT SCOTT, KS 66701 UNITED STATES toylaw@classicnet.net
Submission	Other Motions/Papers
Filer's Name	Terri Lynn Coop
Filer's e-mail	circlexranch@sbcglobal.net
Signature	/Terri Lynn Coop/
Date	10/08/2010
Attachments	ShowCauseResponse100810.pdf ( 2 pages )(16551 bytes ) HerronTTABLetter100410.pdf ( 1 page )(120492 bytes ) TTZJudgment.pdf ( 1 page )(36159 bytes ) NCCJudgment.pdf ( 1 page )(44789 bytes ) KSReconsiderDeny.pdf ( 27 pages )(81699 bytes ) KSSumJudgment.pdf ( 14 pages )(46414 bytes ) KSTrademarkDismiss.pdf ( 32 pages )(97895 bytes ) KSAPEDDismiss.pdf ( 1 page )(11295 bytes )

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

**AMERICAN PLASTIC EQUIPMENT, INC.**

A Florida Corporation

Opp. No. 91174345

v.

**TOYTRACKERZ LLC**

A Kansas Limited Liability Company

Consolidated With:

Opp. No. 91174438

Can. No. 92046541

**RESPONSE TO ORDER OF INTERLOCUTORY ATTORNEY**

*COMES NOW*, Toytrackerz LLC, the Opposition Respondent and the Cancellation Petitioner, with its response to the inquiry of the Interlocutory Attorney as to the status of the civil case between the parties.

District of Kansas case 2:07-cv-2253-DJW, styled:

*American Plastic Equipment, Inc. vs. Toytrackerz LLC*

Has been fully resolved with judgment in favor of Toytrackerz LLC on all trademarks and copyright counts. The case was terminated on April 1, 2010 and the appeal period has passed.

David E. Herron II, filed a letter with the TTAB on October 4, 2010 saying this case was still pending (Ex. 1). This is misleading and not the truth. Attached are the following documents:

Ex. 2 Judgment in a Civil Action in favor of Toytrackerz LLC, filed 04/01/2010

Ex. 3 Judgment in a Civil Action in favor of Noah C. Coop, filed 03/31/2010

Ex. 4 Memorandum and Order denying American's motion for reconsideration, filed 03/31/2010

Ex. 5 Memorandum and Order granting Toytrackerz' motion for summary judgment  
against American on Count I: Copyright, filed 03/31/2010

Ex. 6 Memorandum and Order granting Toytrackerz' motion to dismiss Counts II – IX:  
Trademarks, filed 03/31/2008.

In a companion case before the District of Kansas, 2:08-cv-02297-GLR, the court  
found no jurisdiction over American Plastic Equipment and granted Mr. Herron's motion  
to dismiss as to American on May 6, 2009. (Ex. 7: Docket Text Only).

Consequently, all civil litigation between Toytrackerz LLC and American Plastic  
Equipment, Inc. is resolved and there is no reason for the matters pending before the  
Board not proceed.

Submitted the 8<sup>th</sup> day of October 2010

Sincerely,

/Terri L. Coop/

Owner – Toytrackerz LLC  
10 N. National Avenue  
Fort Scott KS 66701  
(620) 215-3512  
circlexranch@sbcglobal.net

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

AMERICAN PLASTIC EQUIPMENT, INC.  
a Florida Corporation

Opp. No 91/174,345

vs.

TOYTRACKERZ LLC  
A Kansas limited liability company

consolidated with:

Opp. No 91/174,438  
Canc. No 92/046,541

RESPONSE TO ORDER OF INTERLOCUTORY ATTORNEY

In response to the Order mailed on September 29, 2010, the Opposer American Plastic Equipment, Inc. hereby informs that the civil action that occasioned the suspension of these actions *remains pending* in the United States District Court for the District of Kansas.

Respectfully,



David E Herron II #15783  
8527 Bluejacket Street  
Lenexa KS 66214  
(913) 495-9465  
FAX (913) 888-6928  
ATTORNEY FOR AMERICAN PLASTIC

CERTIFICATES OF MAILING

I deposited a copy of the above and foregoing in the United States Mail, postage prepaid and properly addressed to each of the following on October 4, 2010:

Asst. Comm'r for Trademarks  
MAILSTOP TTAB  
PO Box 1451  
Alexandria VA 22313

Terri L. Coop  
302 S Lowman Ave  
Ft Scott KS 66701



David E Herron II #15783

UNITED STATES DISTRICT COURT  
for the  
District of Kansas

AMERICAN PLASTIC EQUIPMENT, INC. )

*Plaintiff* )

v. )

TOYTRACKERZ, LLC et al. )

*Defendant* )

Civil Action No. 07-2253-DJW

**JUDGMENT IN A CIVIL ACTION**

The court has ordered that *(check one)*:

☐ the plaintiff *(name)* \_\_\_\_\_ recover from the  
defendant *(name)* \_\_\_\_\_ the amount of  
\_\_\_\_\_ dollars (\$ \_\_\_\_\_), which includes prejudgment  
interest at the rate of \_\_\_\_\_ %, plus postjudgment interest at the rate of \_\_\_\_\_ %, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant *(name)* \_\_\_\_\_  
\_\_\_\_\_ recover costs from the plaintiff *(name)* \_\_\_\_\_.

☒ other: Defendant Toytrackerz, LLC's Motion for Summary Judgment (doc. 50) is granted.

This action was *(check one)*:

☐ tried by a jury with Judge \_\_\_\_\_ presiding, and the jury has  
rendered a verdict.

☐ tried by Judge \_\_\_\_\_ without a jury and the above decision  
was reached.

☒ decided by Judge David J. Waxse on a motion for  
Summary Judgment.

Date: 04/01/09

TIMOTHY M. O'BRIEN  
CLERK OF COURT

s/ Marla Gonzales

*Signature of Clerk or Deputy Clerk*

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