

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:09MC153-RJC-DSC**

IN RE APPLICATION OF BLUE OIL)
TRADING LTD,)
))
In re Application for Order Pursuant to)
28 U.S.C. § 1782)
_____)

ORDER

THIS MATTER is before the Court on the Petitioner Blue Oil Trading Ltd.'s "Application for Discovery Pursuant to 28 U.S.C. § 1782" (document #1) filed ex parte on August 27, 2009. Petitioner seeks an Order for discovery pursuant to 28 U.S.C. § 1782 from a person located within this district [in this case, Deloitte LLP] for use before the High Court of Justice, London England, in litigation captioned Speedway Motorsports, Inc., et. al., v. Blue Oil Trading Ltd., Folio No. 2007/1644 ("the U.K. litigation"). Petitioner's counsel has notified the chambers of the District Judge to whom this case is assigned (the Honorable Robert J. Conrad, Jr.) that the U.K. litigation is scheduled for trial on September 21, 2009.

As the Petitioner concedes, whether to issue the Order on an ex parte basis or to hold the Application in abeyance pending a response from other interested parties is within the District Court's broad discretion. In re Merck & Co., Inc., 197 F.R.D. 267, 270-71 (M.D.N.C. 2000) (where underlying litigation was a patent case in England, due to concerns of "long distance and short time present in the case," court allowed all interested parties opportunity to respond prior to granting application for discovery from witnesses located in Greensboro, North Carolina).

For the same reasons, the undersigned concludes that all parties in the U.K. litigation as well as the proposed deponent should be permitted a reasonable opportunity to respond to the

Application.

NOW THEREFORE, IT IS ORDERED:

1. Petitioner Blue Oil Trading Ltd.'s "Application for Discovery Pursuant to 28 U.S.C. § 1782" (document #1) is **HELD IN ABEYANCE** pending the briefing schedule set forth below.

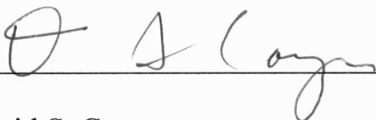
2. Counsel for Petitioner shall immediately serve (by both electronic and regular mail) copies of this Order, along with the Application, supporting Declaration, and other attachments, to each party in the U.K. litigation, as well as to the proposed deponent, Deloitte LLP, and shall promptly certify to the Court that said service has been made.

3. Any party wishing to file a response to the Application shall do so on or before September 10, 2009.

4. The Clerk is directed to send copies of this Memorandum and Order to counsel for the Petitioner; and to the Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: September 3, 2009



David S. Cayer
United States Magistrate Judge

