

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

DUNN
Mailed: March 3, 2006

Opposition No. 91119020

GO MEDICAL INDUSTRIES PTY
LTD.

v.

INMED CORPORATION¹

Elizabeth A. Dunn, Attorney:

Proceedings herein have been suspended since March 9, 2001 pending the outcome of civil litigation between the parties.

On September 12, 2005,² opposer responded to a Board status query with notification that the civil proceeding had been dismissed in *Go Medical Industries Pty, Ltd. and Alexander G.B. O'Neil v. Inmed Corporation d/b/a Rusch International and Alpine Medical Inc.*, CA 1:01-CV-313-TWT (United States District Court for the Northern District of

¹ The assignment of application Serial No. 75786274 from Medical Marketing Group Inc. to Inmed Corporation is recorded with the U. S. Patent and Trademark Office Assignment Services Branch at Reel 2150, Frame 0545. Inasmuch as the assignment took place before institution of this proceeding, the assignee is substituted as defendant in this proceeding.

² The delay in acting upon this matter is regretted.

Georgia, Atlanta Division). Opposer attached a copy of the dismissal order and requested entry of judgment in opposer's favor.

Opposer's motion is denied. As set forth below, opposer failed to serve applicant with a copy of its filing with the Board, failed to file a formal motion specifying the grounds on which it seeks judgment, and failed to include a copy of the order relating to trademark issues.

Inasmuch as opposer's response fails to indicate proof of service on applicant, as required by Trademark Rule 2.119, opposer is allowed until 10 days from the mailing date of this order to serve applicant with a copy of its September 12, 2005 filing. Strict compliance with Trademark Rule 2.119 is required by opposer in all future papers filed with the Board.

The enclosed district court order does not address the trademark infringement claim but denies defendant's motion for judgment on its breach of contract claim, an issue apparently unrelated to the issues before the Board. The order indicates that, following a jury trial, judgment was entered in favor of plaintiff, opposer herein, on the claim of trademark infringement by defendant, applicant herein. That earlier order was not enclosed, and the Board has no way of knowing the court's findings, or whether applicant's use of its mark has been enjoined or limited in any way.

Accordingly, to warrant resumption of proceedings, opposer must file a copy of the court's final order with respect to the trademark infringement claim and state whether any appeal is pending.

Finally, if opposer seeks Board action with respect to the court's order, such action must be specified in a formal motion, and properly served on applicant. Failing such motion, and absent any directive from the court relating to the issues of registrability before the Board, proceedings herein will be resumed.
