

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Ryan

MAILED: October 1, 2002

Opposition No. 150,270

Olympus Optical Co., Ltd.

v.

Wright Medical Technology, Inc.

**Before Karyn K. Ryan, Interlocutory Attorney
Trademark Trial and Appeal Board:**

On June 10, 2002, the Board issued an order approving applicant's February 1, 2002 proposed amendment to its application, Serial No. 76/191,390, granting applicant's February 1, 2002 motion to suspend, and allowed opposer time to file a withdrawal of the opposition. The record shows no response by opposer herein.

Accordingly, proceedings are hereby **resumed**.¹ Before we determine at which point in the case to resume proceedings, a brief review of the pertinent record is believed to be in order.

Looking back, we observe that the Board instituted this proceeding on November 29, 2001, setting a January 8, 2002 deadline for applicant's answer to the notice of opposition. Applicant, on December 21, 2001, filed its answer to the notice of opposition and on February 1, 2002, applicant submitted its motion to suspend during the discovery period. By its motion to suspend, applicant sought a thirty-day suspension of this

¹ The opposition will go forward on the application, as amended.

proceeding and issuance of a resumption order to resume proceedings on March 4, 2002.

The Board's June 10, 2002 order granted the motion to suspend for the requested thirty-day period, however, that order inadvertently overlooked applicant's request for a resumption of appropriate discovery and dates as of March 4, 2002. The oversight is regretted.

Under the circumstances, we hereby **clarify** and **modify** the Board's June 10, 2002 order such that proceedings are deemed suspended *nunc pro tunc*, effective as of the filing date of applicant's motion to suspend. In view of the Board's omission of a new discovery and trial schedule in the June 10, 2002 order and the pendency of the Board's action herein, the close of discovery and trial dates are *sua sponte* **extended and reset** as indicated below.² See Trademark Rule 2.120(a).

DISCOVERY PERIOD TO CLOSE:	March 4, 2003
30-day testimony period for party in the position of plaintiff to close:	June 2, 2003
30-day testimony period for party in the position of the defendant to close:	August 1, 2003
15-day rebuttal period for party in the position of the plaintiff to close:	September 15, 2003

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² **IN EACH INSTANCE**, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within **thirty days** after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If the parties seek any further extensions to the trial schedule in this case, any future consented motions to extend should set forth all dates in the format shown in this order. See Trademark Rule 2.121(d).