

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

Mailed: January 15, 2005

Opposition No. 91153438

GUSTAFSON, LLC

v.

BAYER CORPORATION

**David Mermelstein, Attorney:**

Now before the Board is applicant's December 9, 2004, consent motion to amend the subject application. Applicant seeks to amend the goods recited in the application as follows:

Insecticides, ~~pesticides and herbicides for domestic, agricultural, and other professional use~~ for use on crops, excluding sod or sod farms.

Applicant's proposed amendment is unacceptable, because it deletes the previous limitation that the goods are intended for professional use, resulting in a broader identification of goods. See, Trademark Rule 2.71.

Proceedings are SUSPENDED for sixty days from the mailing date of this order to allow applicant an opportunity to submit an acceptable amendment, failing which proceedings will resume upon the schedule set out below.

The parties are allowed THIRTY DAYS from resumption of proceedings in which to serve responses to any outstanding

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discovery requests. Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE:	<b>CLOSED</b>
Thirty-day testimony period for party in position of plaintiff to close:	<b>May 14, 2005</b>
Thirty-day testimony period for party in position of defendant to close:	<b>July 13, 2005</b>
Fifteen-day rebuttal testimony period to close:	<b>August 27, 2005</b>

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.

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