

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

jh

**Mailed: July 20, 2007**

**Opposition No. 91163719**

**DIGI INTERNATIONAL, INC.**

**v.**

**DIGIPOS SYSTEMS, INC.**

**Cheryl Butler, Attorney, Trademark Trial and Appeal Board:**

The parties filed on, March 21, 2007, a stipulated motion to take the rebuttal testimony deposition of Joel Young outside the designated rebuttal testimony period. On May 7, 2007, the parties filed a stipulated protective agreement.

The stipulated motion to take the testimony deposition outside the assigned period is granted. See Trademark Rule 2.121(a)(1); and TBMP §701 (2d ed. rev. 2004). The Board notes in passing that the transcript was filed on May 7, 2007. See Trademark Rule 2.125(a); and TBMP §703.01(k) (2d ed. rev. 2004).

In regards to the stipulated protective agreement, the parties are referred, as appropriate, to TBMP §§ 412.03 (Signature of Protective Order), 412.04 (Filing

Opposition No. 91163719

Confidential Materials With Board), 412.05 (Handling of Confidential Materials by Board).

The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing paragraphs (d) and (e) of 37 CFR § 2.27, which provide, in essence, that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection.

Applicant also filed, on May 31, 2007 and June 12, 2007, consented motions to extend time for applicant to file its brief. The motions are granted and applicant's brief filed June 22, 2007 is noted and made of record.

On June 22, 2007, applicant filed a request for oral hearing. The request is being forwarded the Secretary for the Chief Administrative Trademark Judge for scheduling.

☼☼☼