ESTTA Tracking number: **ESTTA176464**
Filing date: **11/21/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91174523
Party	Plaintiff Novartis Vaccines and Diagnostics, inc. substituted for Novartis AG
Correspondence Address	Maury M. Tepper, III Womble Carlyle Sandridge & Rice, PLLC 150 Fayetteville Street Mall, Suite 2100, P.O. Box 831 Raleigh, NC 27602 UNITED STATES MTepper@wcsr.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	John P. Margiotta
Filer's e-mail	jmargiotta@frosszelnick.com
Signature	/John P. Margiotta/
Date	11/21/2007
Attachments	Joint Motion Regarding Discovery and Testimony Periods Opp. No. 91174523.pdf (11 pages)(172487 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NOVARTIS VACCINES AND DIAGNOSTICS, INC., substituted for Novartis AG, Opposer, -against- KYRON CLINICAL IMAGING, INC., Applicant.	**Opposition No. 91174523**

JOINT MOTION REGARDING DISCOVERY AND TESTIMONY PERIODS

On September 14, 2007, the Board issued two orders governing discovery and testimony periods in the above proceeding, and the dates contained in each order conflict. The two orders are attached hereto as Exhibits A and B.

The parties have met and conferred and agree that both parties are in need of more time to complete discovery and present testimony than the time allotted in the Schedule contained in Exhibit A hereto. Therefore, the parties jointly move the Board to adopt the deadlines governing discovery and testimony periods that are set out in Exhibit B hereto. If the Board adopts those dates, the discovery and testimony periods would be as follows:

Discovery period to close: April 1, 2008

30 day testimony period for party in position of plaintiff to close: June 30, 2008

30-day testimony period for party in position of defendant to close: August 28, 2008[1]

15-day rebuttal testimony period to close: October 13, 2008

[1] There appears to have been a typo in the Schedule attached as Exhibit B hereto, as the Board Order set this period to occur *before* plaintiff's testimony period opened. We have corrected this date by using the Board's typical scheduling periods.

This motion is jointly and respectfully submitted.

DATED: November 21, 2007

FROSS ZELNICK LEHRMAN & ZISSU, P.C

By _____
John P. Margiotta

Attorneys for Opposer Novartis Vaccines and Diagnostics, Inc.

DATED: November 21, 2007

MICHAEL BEST & FRIEDRICH LLP

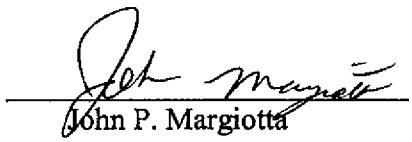
By _____
Lori S. Meddings

Attorneys for Applicant Kyron Clinical Imaging, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing JOINT STIPULATION REGARDING DISCOVERY AND TESTIMONY DATES was sent by prepaid first-class mail this ~~20th~~ 21st day of November, 2007 to:

Lori S. Meddings, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Ave.
Suite 3300
Milwaukee, WI 53202-4108



John P. Margiotta

EXHIBIT A

ac

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

Mailed: September 14, 2007

Opposition No 91174523

Novartis Vaccines and Diagnostics, Inc.
substituted for Novartis AG

v.

Kyron Clinical Imaging, inc.

Angela Lykos, Interlocutory Attorney

Opposer's consented motion (filed September 10, 2007) for leave to substitute opposers and amend the notice of opposition is granted.

The amended notice of opposition, which was attached as exhibit to the subject motion, is now the operative pleading.

Applicant is allowed until THIRTY DAYS from the mailing date of this order to file an answer to the amended notice of opposition.

Discovery and testimony dates are set as indicated below.

Discovery period to close: 11/29/07

30-day testimony period for party
in position of plaintiff to close: 2/28/08

30-day testimony period for party
in position of defendant to close: 4/28/08

15-day rebuttal testimony period
to close: 6/12/08

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such 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.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. *See* TBMP § 502.06(a) (2d ed. rev. 2004).

If the parties to this proceeding are (or during the pendency of this proceeding, become) parties to another Board or civil proceeding involving related marks or other common issues of law or fact, they shall notify the Board immediately, so that the Board can consider consolidation or suspension of proceedings, if appropriate.

New Developments at the Trademark Trial and Appeal Board

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at http://estta.uspto.gov. Images of TTAB proceeding files can be viewed using TTABvue at http://ttabvue.uspto.gov.

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm

EXHIBIT B

John Margiotta

From: ESTTA@uspto.gov
Sent: Friday, September 14, 2007 9:41 AM
To: Meddings, Lori S (13464); Vandamme, Amy L (12753); MKE IP Docket
Subject: TTAB Response

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

ac

Mailed: September 14, 2007

Opposition No 91174523

Novartis AG

v.

Kyron Clinical Imaging, inc.

Angela Lykos, Interlocutory Attorney

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Discovery and testimony dates are set as indicated below.

Discovery period to close: 4/1/08

30-day testimony period for party
in position of plaintiff to close: 6/30/08

30-day testimony period for party
in position of defendant to close: 4/28/08

15-day rebuttal testimony period
to close: 10/13/08

A party must serve on the adverse party a copy of the transcript of any testimony taken during the partys testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such 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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http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pd:

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http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm