

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

Mailed: July 12, 2007

gcp/fc

Opposition No. 91175319

Intuitive Surgical, Inc.

v.

DaVinci Radiology Associates,
P.L.

George C. Pologeorgis, Interlocutory Attorney:

Answer was due in this case on March 6, 2007. Inasmuch as applicant failed to file a timely answer, the Board issued a notice of default on April 9, 2007.

In response to the Board's default notice, applicant filed on April 20, 2007 a motion to set aside the notice of default, and again filed on April 30, 2007 a duplicate motion¹, supplemented with the parties' stipulation to extend time to answer up to and including May 4, 2007, as well as an answer to the notice of opposition.

¹ In applicant's Amended Certificate of Service with the April 30 filing, applicant indicated that its review of the TTABVIEW database online failed to disclose receipt of the April 20 filing. The Board notes that the record for this proceeding currently available online shows that both the April 20 and April 30 filings were received and are part of the record. Both the April 20 and April 30 filings appear to be identical but for the Answer included with the later of the filings.

In view of the foregoing, the default is hereby set aside and applicant's answer filed on April 30, 2007 is noted and accepted.

Discovery and testimony periods are reset as indicated below.

Discovery period to close:	11/13/07
30-day testimony period for party in position of plaintiff to close:	2/11/08
30-day testimony period for party in position of defendant to close:	4/11/08
15-day rebuttal testimony period to close:	5/26/08

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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>.