

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

Mailed: July 6, 2009

Opposition No. 91176920

Durance

v.

Apex Energetics

George C. Pologeorgis, Interlocutory Attorney:

The Board notes that since October 2007, the parties have effected numerous stipulations to suspend this proceeding to accommodate the parties' settlement negotiations, yet no settlement has been reached. If the parties agree to another extension or suspension, they will be expected to report to the Board on the progress of their settlement negotiations. Such report must include a recitation of issues that have been resolved, issues that remain to be resolved, and a firm timetable for resolution. Absent such a report, any future motion to extend or suspend, even though agreed to by the parties, will not be granted.

Notwithstanding the foregoing, the parties' stipulation (filed on July 1, 2009) to maintain suspension of these proceedings for another 180 days so that the parties may

continue their settlement discussions is granted. Trademark Rule 2.127(a).

Accordingly, proceedings herein are suspended through **December 29, 2009**, subject to the right of either party to request resumption at any time. See Trademark Rule 2.117(c).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume without further notice or order from the Board, upon the schedule set out below.

Proceedings resume: **December 30, 2009**

DISCOVERY PERIOD TO CLOSE: **4/28/2010**

Testimony period for party in position of plaintiff to close: (opening thirty days prior thereto) **7/27/2010**

Testimony period for party in position of defendant to close:(opening thirty days prior thereto) **9/25/2010**

Rebuttal testimony period to close: (opening fifteen days prior thereto) **11/9/2010**

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, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.

NEWS FROM THE TTAB:

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>