

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

Mailed: January 17, 2008

Opposition No. 91180059

bioMerieux, Inc.

v.

VIVIDAS TECHNOLOGIES PTY
LIMITED

Linda Skoro, Interlocutory Attorney

This case comes up on opposer's motion to suspend these proceedings for settlement. Applicant has objected.

The ground for the motion was simply stated, as additional time is needed for settlement negotiations. Applicant responded stating that there is no need to suspend at this point, discovery closes on May 2, 2008; that while applicant returned a signed settlement agreement, it had not heard back from opposer; and that applicant has not been given any "reasonable" explanation as to why six months are needed to reach an agreement. Applicant does state that it is willing to agree to a thirty-day extension. In its reply, opposer states that when it received the signed agreement from applicant, that it was forwarded on to local counsel in France; that with the holidays close at hand, many people were out; and that it is continuing to find a corporate officer who has authority to execute the agreement.

While the Board understands applicant's frustration with a seemingly long delay in response to a settlement agreement, opposer has a reasonable explanation for the delay. However, as applicant also points out, a six-month delay in this proceeding, at this point in time seems unnecessary. Opposer should be able to communicate efficiently overseas.

Accordingly, opposer's motion to suspend is hereby denied to the extent dates are being reset to reflect a sixty-day extension. Trial dates are reset as indicated below.

DISCOVERY PERIOD TO CLOSE: **July 2, 2008**

30-day testimony period for party in position of plaintiff to close: **September 30, 2008**

30-day testimony period for party in position of defendant to close: **November 29, 2008**

15-day rebuttal testimony period for plaintiff to close: **January 13, 2009**

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.

.ooo.

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>