

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

RR/CG

Mailed: December 18, 2007

Opposition No. 91180586

Abbott Laboratories

v.

BioCare Direct, Inc.

Cheryl Goodman, Interlocutory Attorney:

On November 7, 2007, the Board sent notification of institution of this proceeding, which set the time for answer as well as the discovery and trial schedule, to applicant's attorney of record as identified in the involved application. See TBMP Section 310. On November 26, 2007, applicant's attorney of record, as identified in the involved application, filed a request to withdraw as applicant's counsel of record in this case.¹ The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. The law firm of Babener & Associates no longer represents applicant in this proceeding.

It is noted that a revocation/power of attorney was filed in the trademark application file. This paper has been scanned into this proceeding and the records have been updated to

reflect that Michael E. Mangelson, of Stoel Rivers LLP is applicant's new attorney and correspondent.

It is noted that the parties' filed a request to extend applicant's time to answer through the Board's electronic filing system (ESTTA). The parties are advised that cases filed after November 1, 2007 should not use Consent Motion forms on ESTTA until further notice as the Board is in the process of adapting the ESTTA system to accommodate the new rules. The parties should file written consent motions to extend under the general filings option in Estta. See What's in ESTTA (11/1/2007).

The Board has reset the other deadlines in this proceeding as extending the time to answer affects the deadline for the discovery conference.

Time to Answer	1/16/08
Deadline for Discovery Conference	2/15/08
Discovery Opens	2/15/08
Initial Disclosures Due	3/16/08
Expert Disclosures Due	7/14/08
Discovery Closes	8/13/08
Plaintiff's Pretrial Disclosures	9/27/08
Plaintiff's 30-day Trial Period Ends	11/11/08
Defendant's Pretrial Disclosures	11/26/08
Defendant's 30-day Trial Period Ends	1/10/09
Plaintiff's Rebuttal Disclosures	1/25/09
Plaintiff's 15-day Rebuttal Period Ends	2/24/09

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served

¹ A copy of said request has been placed in both the opposition file and the application file.

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.

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>