

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

EJW

Mailed: February 5, 2010

Opposition No. 91181380  
Opposition No. 91181381  
Opposition No. 91181383  
Opposition No. 91181384  
Opposition No. 91181385  
Opposition No. 91181386  
Opposition No. 91181388

E. & J. Gallo Winery

v.

MIMULANI AG

**ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:**

Clarification of Order Granting Motion to Reopen Discovery  
mailed February 3, 2010

On review, the Board notes a typographical error in the Board's order mailed February 3, 2010, which was issued in connection with the teleconference conducted by the Board on the same date in regard to opposer's motion to reopen the discovery period. Specifically, while the "parent" case in these consolidated proceedings was referenced in the caption of the order, the six "child" cases were inadvertently not listed therein. Accordingly, to the extent it may have been unclear, said order applies to *all* opposition proceedings named herein, which were consolidated by order of the Board

**Opposition No. 91181380**

on April 10, 2008. Further, in view of the withdrawal of applicant's counsel and suspension of these proceedings, discussed *infra*, the reopened discovery period, disclosure and trial dates that were reset in the February 3, 2010 order will be reset upon resumption of these proceedings. Additionally, to the extent it may have been unclear, while the reopened discovery period is limited temporally, that is, to a period of sixty days, the scope of discovery that may be conducted by the parties during the reopened discovery period is not limited, except as set forth under applicable rules. See Fed. R. Civ. P. 26(b)(1); Trademark Rule 2.120, 37 C.F.R. § 2.120. See also TBMP § 402 (2d ed. rev. 2004).

Withdrawal of Applicant's Counsel

On February 3, 2010, after the referenced teleconference on opposer's motion to reopen discovery, applicant's attorneys filed a request to withdraw as applicant's counsel of record in this case.<sup>1</sup> 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 granted. Accordingly, Mr. Mark Lebow and the law firm of Young & Thompson no longer represent applicant in these consolidated proceedings.

---

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

**Opposition No. 91181380**

In view of the withdrawal of applicant's counsel, and in accordance with standard Board practice, proceedings herein are **SUSPENDED**, and applicant is allowed until **thirty days** from the mailing date of this order to appoint new counsel, or to file a paper stating that applicant chooses to represent itself. If applicant files no response, the Board may issue an order to show cause why default judgment should not be entered against applicant based on applicant's apparent loss of interest in these consolidated proceedings.

The parties will be notified by the Board when proceedings are resumed, and dates will be rescheduled at the appropriate time.

A copy of this order has been sent to all persons listed below.

cc:

Mr. Mark Lebow  
Young & Thompson  
209 Madison Street, Suite 500  
Alexandria, VA 22314

Mr. Seth I. Appel  
Harvey Siskind LLP  
Four Embarcadero Center, 39<sup>th</sup> Floor  
San Francisco, CA 94111

Mimulani AG  
Bahnhofstrasse 7  
ZUG CH-6301  
SWITZERLAND

