

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

EJW

Mailed: February 11, 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:

Withdrawal of Applicant's Counsel

The Board notes opposer's submission (filed February 8, 2010) in regard to the withdrawal of applicant's counsel. To the extent such filing constitutes a motion for reconsideration of the order mailed February 5, 2010, in which the Board allowed the withdrawal of applicant's counsel, and requests that the Board require applicant to appoint new counsel in the United States to facilitate the completion of discovery, the motion is denied. Applicant is not required to have either a domestic representative or to have U.S. counsel to participate in a Board proceeding. See Trademark Rules 2.119(d) and 2.24; and TBMP § 117.06 (2d ed. rev. 2004). Additionally, prior counsel's request to

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withdraw complied with the requirements of Trademark Rules 2.19(b) and 10.40(c). See also TBMP §§ 116.04 and 116.05.

Legal Representation Is Strongly Encouraged

Nonetheless, applicant is reminded that while Patent and Trademark Rule 10.14 permits any (legal) person to represent him or it/herself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition or opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

All Parties Must Comply with Board Deadlines

While it is true that the law favors judgments on the merits wherever possible, it is also true that the Patent and Trademark Office is justified in enforcing its procedural deadlines. *Hewlett-Packard v. Olympus*, 18 USPQ2d 1710 (Fed. Cir. 1991).

In that regard, applicant is reminded that the discovery period will be reopened after the thirty day suspension period ordered on February 5, 2010 and that applicant (and/or its new counsel) will be expected to

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cooperate with opposer in conducting and responding to
discovery once this proceeding is resumed.

**Strict compliance with the Trademark Rules of Practice,
and where applicable the Federal Rules of Civil Procedure,
is expected of all parties before the Board, whether or not
they are represented by counsel.**

Proceedings Suspended

These proceedings remain suspended pending applicant's
response to the Board's order mailed February 5, 2010.

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