

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

nmt/gcp

Mailed: October 15, 2010

Opposition No. 91192781

Bayer HealthCare LLC

v.

Biogen Idec MA Inc.

George C. Pologeorgis, Interlocutory Attorney:

On October 7, 2010, applicant filed a proposed amendment to its application Serial No. 77701134, without providing opposer's consent.

By the proposed amendment, applicant seeks to change the identification of goods in International Class 5 **from:** "pharmaceutical preparations for the treatment of cardiovascular disorders" **to:** "prescription pharmaceutical preparations for the treatment of cardiovascular disorders."

Although the Board finds that the amendment is clearly limiting in nature and, therefore, would be deemed acceptable, applicant did not provide opposer's consent to the amendment. See Trademark Rules 2.133(a), 37 C.F.R. §§ 2.133(a) and 2.173(b).

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The Board generally defers determination of a timely filed unconsented motion to amend in substance until final decision, or until the case is decided upon summary judgment. *See Space Base Inc. v. Stadis Corp.*, 17 USPQ2d 1216 (TTAB 1990) (motion to amend identification of goods deferred).

In view thereof, consideration of applicant's proposed amendment is hereby deferred until final judgment or until the case is decided upon summary judgment.

Trial dates remain as reset by Board order dated September 28, 2010.