

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

Mailed: March 25, 2011

Opposition No. 91192781

Bayer HealthCare LLC

v.

Biogen Idec MA Inc. and
Cardiokine Biopharma, LLC

**George C. Pologeorgis,
Interlocutory Attorney:**

Pursuant to Board procedure, opposer filed a notification on March 24, 2011 advising the Board that it has retained an expert whom it may use at trial to present evidence and has served the required expert disclosure upon applicant pursuant to Fed. R. Civ. P. 26(a)(2).

Inasmuch as opposer has now advised the Board of its intention of using an expert witness, proceedings herein are **suspended** for **sixty (60) days** for the sole purpose of affording applicants the opportunity to take discovery limited to opposer's designated expert witness. Moreover, if applicants retain an expert for rebuttal purposes only, applicants must serve a rebuttal expert disclosure upon opposer in accordance with Fed. R. Civ. P. 26(a)(2), as well as notify the Board of their intention of using a rebuttal

expert witness, within the same sixty-day time period set forth above. In the event applicants do retain a rebuttal expert witness, opposer will be entitled to take limited discovery of applicants' rebuttal expert witness within the same sixty days provided above. To the extent either party requires an extension of the suspension period to complete the discovery permitted above, such party may file a motion to extend the suspension period.

If all discovery regarding designated expert witnesses is completed prior to the conclusion of the sixty-day suspension, the parties must notify the Board so that the Board may reset the remaining time in discovery, as well as reset all subsequent trial dates. Otherwise, proceedings herein will resume at the conclusion of the sixty-day suspension period and all appropriate trial dates, including remaining discovery, will be reset.¹

¹ By this order, the Board assumes that opposer has complied with all the requirements concerning an expert witness disclosure under Fed. R. Civ. P. 26(a)(2), including service of an expert witness report, concurrently with its expert witness disclosure, upon applicants.