

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

Mailed: September 28, 2011

Opposition No. 91197754

WOLF-PETER GRAESER

v.

LAVATEC, INC.

**Cheryl Butler, Attorney, Trademark Trial and Appeal Board:**

On September 26, 2011, the Board issued an order concerning the parties' then-pending discovery motions and reset dates. It has now come to the Board's attention that opposer, on September 9, 2011, filed a motion to compel applicant's responses to opposer's written discovery requests, served July 29, 2011.<sup>1</sup>

However, opposer's motion was filed while this proceeding was suspended pending disposition of the motions addressed in the September 26, 2011 order. Further, opposer's motion was not germane to those then-pending motions. Accordingly, no further consideration is given thereto.

The Board notes, nonetheless, that the scheduling portion of the September 26, 2011 order specifically allows time for each party to respond to any outstanding discovery requests of its

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<sup>1</sup> For some unknown, presumably technical, reason, this motion did not display in the docket until after the September 26, 2011 order was mailed.

adversary. To the extent supplementation is necessary, each party may use this time to do so.

With respect to service, the point of permitting e-mail service was to provide convenience for the parties, not to provide bases for motions practice or sanctions. Often, large attachments will not transmit successfully by e-mail. Parties make other arrangements and accommodations. The Board suggests that the parties to this case discuss the matter further. They may find a better solution in retaining traditional service with e-mail courtesy copies.

Dates remain as set in the September 26, 2011 order.

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