

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

cv

Mailed: December 17, 2012

Cancellation No. 91200105

Novozymes Bioag, Inc.

v.

Cleary Chemicals, LLC

Jennifer Krisp, Interlocutory Attorney:

On October 25, 2012, opposer filed an unconsented motion to amend its Registration No. 3511124. Opposer seeks to amend the registration as follows:

IN THE STATEMENT,

Change both the date of first use and the date of first use in commerce to - at least as early as October 19, 2007 -.

The record indicates that the required fee has not been submitted, and that the amendment is not supported by a declaration under Trademark Rule 2.20. See Trademark Rules 2.6, 2.133(a) and 2.173(b).

Moreover, inasmuch as opposer's proposed amendment is unconsented, determination of opposer's motion to amend is deferred until final decision or until the case is decided upon summary judgment. See, e.g., *Fort Howard Paper Co. v. C.V.*

*Gambina Inc.*, 4 USPQ2d 1552 (TTAB 1987) (motion to amend dates of use deferred); and *Mason Engineering & Design Corp. v. Mateson Chemical Corp.*, 225 USPQ 956, 957 n.4 (TTAB 1985) (same).<sup>1</sup>

Applicant's November 15, 2012 consented motion for a 30-day extension of time to respond to opposer's motion for summary judgment is granted.<sup>2</sup>

Proceedings remain suspended.

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<sup>1</sup> Accordingly, applicant's November 15, 2012 motion to defer determination of opposer's motion to amend registration is granted.

Regarding opposer's December 4, 2012 consented motion for an extension of time to respond to applicant's motion to defer determination, as noted above, the Board may, in its discretion, consider the merits of opposer's motion to amend its registration in the course of determining the motion for summary judgment. In view thereof, opposer's December 4, 2012 motion is granted.

<sup>2</sup> To the extent that the parties, in said consented motion, request "that all subsequent dates be reset accordingly," the request is inappropriate. This proceeding is, and remains, in suspended status pursuant to Trademark Rule 2.127(d).

A reply brief, if any, on the motion for summary judgment will be due pursuant to Trademark Rule 2.127(e) (1).