

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

Mailed: February 7, 2007

Cancellation No. 92045238

Rexam Closures and Containers,  
Inc. Rexam Closures and  
Containers, Inc.

v.

Berry Plastics Corporation

George C. Pologeorgis, Interlocutory Attorney:

On December 12, 2006, petitioners filed a motion to enforce the parties' settlement agreement or, in the alternative, reopen discovery and reset testimony periods. Petitioners' motion is uncontested. Following a review of petitioners' December 12, 2006 filing, the Board notes that petitioners' motion does not include evidence of an executed settlement agreement signed by all the parties involved in this proceeding.

Accordingly, petitioners' motion is denied to the extent that the Board will not enforce an agreement that has not been executed by all involved parties. The Board, however, hereby grants petitioners' uncontested December 12,

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2006 motion to the extent that discovery is reopened and discovery and trial dates are reset as indicated below. See Trademark Rule 2.127(a).

DISCOVERY TO CLOSE: **May 10, 2007**

Thirty-day testimony period for party in position of plaintiff to close: **August 8, 2007**

Thirty-day testimony period for party in position of defendant to close: **October 7, 2007**

Fifteen-day rebuttal testimony period for plaintiff to close: **November 21, 2007**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.