

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

Mailed: August 8, 2009

Cancellation No. 92046058

Cancellation No. 92046064

MASIMO CORPORATION

v.

MEDTRONIC, INC.

Amy Matelski, Paralegal Specialist

Petitioner's consented motion to further suspend proceeding filed August 5, 2009 is noted.

Because the parties are negotiating for possible settlement of this case, proceedings herein are suspended until October 8, 2009, subject to the right of either party to request resumption at any time. See Trademark Rule 2.117(c).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume without further notice or order from the Board, upon the schedule set out below. **If the parties agree to another extension or suspension, they will be expected to report to the Board on the progress of discovery, or of any ongoing settlement negotiations. Such report must include: a**

recitation of discovery taken to date, a statement of issues that have been resolved and issues that remain to be resolved, and a firm timetable for resolution. Absent such a report, any future motion to extend or suspend may not be approved, even though agreed to by the parties.

THE PERIOD FOR DISCOVERY TO CLOSE:	February 8, 2010
30-day testimony period for party in position of plaintiff in the cancellation to close:	May 9, 2010
30-day testimony period for defendant in the cancellation and as plaintiff in the counterclaim to close:	July 8, 2010
30-day testimony period for defendant in the counterclaim and its rebuttal testimony as plaintiff in the cancellation to close:	September 6, 2010
15-day rebuttal testimony period for plaintiff in the counterclaim to close:	October 21, 2010
Briefs shall be due as follows: [See Trademark rule 2.128(a)(2)].	
Brief for plaintiff in the cancellation shall be due:	December 20, 2010
Brief for defendant in the cancellation and as plaintiff in the counterclaim shall be due:	January 19, 2011
Brief for defendant in the counterclaim and its reply brief (if any) as plaintiff in the cancellation shall be due:	February 18, 2011
Reply brief (if any) for plaintiff in the counterclaim shall be due:	March 5, 2011

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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.