

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

Mailed: November 11, 2008

Cancellation No. 92049753

Zimmer, Inc.

v.

Encore Medical Asset  
Corporation

Karl Kochersperger, Paralegal

The notice of default issued November 7, 2008 is hereby vacated in view of the return of the Board's remailed notice of institution dated September 10, 2008 as undeliverable. The appearance of respondent's counsel and designation of correspondence address on October 22, 2008 is noted. In view thereof, the notice of institution is hereby remailed to respondent's designated correspondent. Dates, including applicant's time to answer, are reset below.

In accordance with the Trademark Rules of Practice, conferencing, disclosure, discovery and testimony dates are set below. 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.

Time to Answer	12/21/08
Deadline for Discovery Conference	1/20/09
Discovery Opens	1/20/09
Initial Disclosures Due	2/19/09
Expert Disclosures Due	6/19/09
Discovery Closes	7/19/09
Plaintiff's Pretrial Disclosures	9/2/09
Plaintiff's 30-day Trial Period Ends	10/17/09
Defendant's Pretrial Disclosures	11/1/09
Defendant's 30-day Trial Period Ends	12/16/09
Plaintiff's Rebuttal Disclosures	12/31/09
Plaintiff's 15-day Rebuttal Period Ends	1/30/10

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 the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**NEWS FROM THE TTAB:**

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABvue at <http://ttabvue.uspto.gov>.

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain

amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>  
[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>