

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

tww

Mailed: March 7, 2003

Opposition No. 91152579

IMPLANT INNOVATIONS, INC

v.

INSTITUT STRAUMANN
AG

Thomas W. Wellington
Interlocutory Attorney,
Trademark Trial and Appeal Board:

On September 19, 2002, applicant filed a motion to suspend or, in the alternative, to extend the time to file an answer and respond to opposer's discovery requests. Specifically, applicant seeks to suspend this proceeding pending resolution of Cancellation No. 32,938 between the same parties.

On October 7, 2002, opposer filed a paper opposing applicant's motion to suspend. Opposer agreed to extend the time for applicant to file an answer and respond to opposer's discovery requests.

The Board may in its discretion suspend a proceeding pending the final determination of another Board proceeding in which the parties are involved. See *Mother's Restaurant*

Inc. v. Mama's Pizza, Inc., 723 F.2d 1566, 221 USPQ 394 (Fed. Cir. 1983), and *Argo & Co. v. Carpetsheen Manufacturing, Inc.*, 187 USPQ 366 (TTAB 1975). However, the Board usually requires that the issue be joined (i.e., that an answer be filed) in one or both proceedings before the Board will consider suspending a Board proceeding pending the outcome of another proceeding if there is no stipulation to suspend (as it the case here).

Because an answer has not been filed in this proceeding, it is not possible for the Board to ascertain, whether the final determination of the other proceeding will have a bearing on the issues before the Board in this proceeding. Accordingly, **applicant's motion to suspend is denied.**¹

Applicant's motion to extend its time to answer is granted to the extent that **applicant is allowed until fifteen (15) days from the mailing date of this order to file an answer to the notice of opposition.**²

Discovery is open and the close of discovery and trial dates are set as follows:

THE PERIOD FOR DISCOVERY TO CLOSE: June 17, 2003

¹ Upon having the issues joined (i.e. filing of an answer), the Board may consolidate the proceedings *sua sponte* or upon a motion, if appropriate.

² To the extent that there are any outstanding discovery requests for which responses are due, **applicant is allowed fifteen (15) days to respond to said discovery requests.**

30-day testimony period for party in position of plaintiff to close:	September 15, 2003
30-day testimony period for party in position of defendant to close:	November 14, 2003
15-day rebuttal testimony period for plaintiff to close:	December 29, 2003

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.