

ESTTA Tracking number: **ESTTA188048**

Filing date: **01/22/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91162940
Party	Plaintiff La Vida Medical Group, Inc.
Correspondence Address	Victor K. Sapphire Jeffer, Mangels, Butler & Marmaro, LLP 1900 Avenue of the Stars, 7th Floor Los Angeles, CA 90067-4308 UNITED STATES trademarkdocket@jmbm.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Jessica C. Bromall
Filer's e-mail	trademarkdocket@jmbm.com, bwk@jmbm.com
Signature	/jessica c. bromall/
Date	01/22/2008
Attachments	Amended Consent Motion.pdf ( 4 pages )(32726 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

LA VIDA MEDICAL GROUP, INC.,  Opposer,  v.  VIDACARE, INC.,  Applicant.	Opposition No.: 91162940  Application Serial No.: 78/267,318 Mark: VIDACARE Published for Opposition: June 22, 2004  Atty. Ref. No.: 58668-0018
---	---

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**AMENDED CONSENTED MOTION TO RESET TESTIMONY PERIODS**

I.    BACKGROUND

On January 16, 2008, Opposer La Vida Medical Group, Inc. ("Opposer"), with the consent of applicant Vidacare, Inc. ("Applicant") filed a Consented Motion to Reset Testimony Periods. On January 22, 2008, the Trademark Trial and Appeal Board (the "Board") denied that motion without prejudice, and requested a status report on the progress of the proceedings.

Accordingly, Opposer, hereby submits this Amended Consented Motion to Reset Testimony Periods, and Status Report on the Progress of the proceedings, as requested by the Board.

II. REQUEST TO EXTEND TRIAL DATES

Opposer, with Applicant's consent, requests that the discovery and testimony periods set by the Board be extended and re-set, as follows:

	<u>Old Date</u>	<u>New Date</u>
Testimony period for party in position of plaintiff to close (opening 30 days prior thereto)	February 25, 2008	April 25, 2008
Testimony period for party in position of defendant to close (opening 30 days prior thereto)	April 25, 2008	June 24, 2008
Rebuttal testimony period to close (opening 15 days prior thereto)	June 9, 2008	August 8, 2008

Julie Seyler, counsel for Applicant, consented to this request to extend the foregoing dates. Good cause exists for the requested extension because it will allow the parties the opportunity to complete discovery in an orderly fashion, it is not offered for purposes of delay, and both parties consent to the extension.

III. STATUS REPORT

Discovery in this matter closed on November 27, 2007. Prior to the close of discovery, Opposer served Requests for Production and Interrogatories on Applicant. Applicant has not yet provided any responses.

In early January 2008, the parties exchanged meet and confer letters regarding the outstanding discovery. Opposer has taken the position that Applicant has waived its objections because it failed to timely respond. Applicant takes the position that its objections have not been waived. Applicant requested that it be given until February 11, 2008 to provide its responses

and, subject to the grant of this Consent Motion, Opposer, without conceding its position that Applicant has waived its right to raise objections to Opposer's discovery requests, granted Applicant until February 11, 2008 to provide its responses.

The parties request the instant 60 day extension of the testimony periods to allow sufficient time for Applicant to provide its responses, and for Opposer to analyze the same, address any deficiency in the responses, and file any required motions to compel prior to the motion deadline preceding the opening of the first testimony period.

Thus, the Board's approval of the request is earnestly solicited..

Respectfully submitted,



Dated: January 22, 2008

---

Rod S. Berman  
Jessica C. Bromall  
JEFFER, MANGELS, BUTLER & MARMARO LLP  
1900 Avenue of the Stars, Seventh Floor  
Los Angeles, CA 90067  
(310) 203-8080  
E-mail: trademarkdocket@jmbm.com  
Attorneys for Opposer Quiksilver, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AMENDED CONSENTED MOTION TO RESET TESTIMONY PERIODS has been sent via electronic mail, this 22nd day of January, 2008, directed to:

Julie B. Seyler  
Abelman, Frayne & Schwab  
666 Third Avenue  
New York, New York 10017  
JBSeyler@lawabel.com

Dated: January 22, 2008

\_\_\_\_\_  
Name: