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Filing date: **03/07/2006**

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

Proceeding	91166022
Party	Defendant VARIAN MEDICAL SYSTEMS TECHNOLOGIES, INC. VARIAN MEDICAL SYSTEMS TECHNOLOGIES, INC 3100 HANSEN WAY PALO ALTO, CA 94304
Correspondence Address	M. Scott Donehay Tomlinson Zisko LLP 200 Page Mill Raod Palo Alto, CA 94306 trademarks@tzllp.com
Submission	Other Motions/Papers
Filer's Name	Attorney for Defendant
Filer's e-mail	trademarks@tzllp.com
Signature	/Kelly Phair McCarthy/
Date	03/07/2006
Attachments	Amendment of Subject Application.pdf (2 pages)

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

ZIMMER TECHNOLOGY, INC.,

Opposer,

vs.

VARIAN MEDICAL SYSTEMS
TECHNOLOGIES, INC.

Applicant.

Opposition No. 91166022

Serial No. 78/316,019

Original Filing Date: 10/20/03

Mark: TRILOGY

Publication Date: 1/18/05

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

**MOTION FOR AMENDMENT OF SUBJECT APPLICATION AFTER PUBLICATION WITH
CONSENT OF THE PARTIES**

In accordance with 37 CFR 2.133(a) and TBMP 605.03(b), Applicant respectfully requests an amendment to the identification of goods of the subject application so that the description reads in its entirety as follows:

Medical device for radiotherapy and radiosurgery comprising hardware and computer software sold together as a unit for use in patient immobilization, treatment planning, image guided targeting, treatment delivery, verification and quality assurance excluding medical devices for use with orthopedic products, dental products or in orthopedic or dental surgery or procedures.

REMARKS

This application was published for opposition on January 18, 2005 and has been opposed by Zimmer Technology, Inc. in an Opposition assigned Number 91,166,022. Opposer is the owner of U.S. Registration No. 1,846,174, for the word "TRILOGY" in connection with the goods, "orthopedic devices; namely, acetabular cup implant and instruments therefor." Opposer

believes the goods described in the subject application, as published, are likely to cause confusion in the marketplace. In accordance with the terms of settlement agreed to by the parties, Applicant has agreed, with the consent of Opposer, to add the exclusion listed at the end of the description as shown above. Such settlement agreement was executed by the parties and the effective date is March 1, 2006.

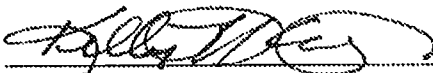
Accordingly, Applicant respectfully requests that the Board approve this amendment and remand the application to the Examining Attorney and that a registration issue forthwith on this application.

DATED 3/7/06

Respectfully submitted,

TOMLINSON ZISKO LLP

By: _____


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VARIAN MEDICAL SYSTEMS
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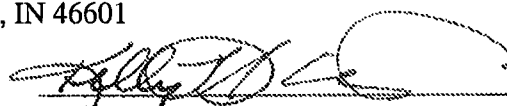
CERTIFICATE OF SERVICE

I hereby certify that the foregoing APPLICANT'S MOTION FOR AMENDMENT OF SUBJECT APPLICATION AFTER PUBLICATION WITH CONSENT OF THE PARTIES; was sent to counsel for Opposer by Federal Express Overnight --Tracking No. 7920 3637 9573-- with a label addressed to:

Gerard T. Gallagher
BAKER & DANIELS LLP
205 West Jefferson Blvd, Suite 250
South Bend, IN 46601

On: _____

3/7/06



Kelly Phair McCarthy

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

acampbell

Mailed: March 17, 2006

Opposition No. 91166022

Zimmer Technology, Inc.

v.

**VARIAN MEDICAL SYSTEMS
TECHNOLOGIES, INC.**

Cheryl Butler, Attorney, Trademark Trial and Appeal Board

On March 7, 2006, applicant filed a proposed amendment to its application Serial No. 78316019, with opposer's consent. By the proposed amendment applicant seeks to change the

identification of goods **from**

medical device for radiotherapy and radiosurgery comprising hardware and computer software sold together as a unit for use in patient immobilization, treatment planning, image guided targeting, treatment delivery, verification and quality assurance

to

medical device for radiotherapy and radiosurgery comprising hardware and computer software sold together as a unit for use in patient immobilization, treatment planning, image guided targeting, treatment delivery, verification and quality assurance excluding medical devices for use with orthopedic products, dental products or in orthopedic or dental surgery or procedures.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).
