

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

Am

Mailed: February 2, 2009

Opposition No. 91168156

NYCOMED US INC.<sup>1</sup>

v.

BRECKENRIDGE PHARMACEUTICAL,  
INC.

**Frances S. Wolfson, Interlocutory Attorney:**

On November 29, 2008 the Board allowed the parties time to inform the Board of the status of the civil action which occasioned the suspension of this proceeding. On December 29, 2008 opposer filed a response indicating that the civil action was no longer pending and requesting that proceedings be resumed. Opposer's response was uncontested by applicant.

In view thereof, proceedings are resumed, and trial dates are reset as follows:

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<sup>1</sup>Substituted for Bradley Pharmaceuticals, Inc. as a result of a merger between the companies, recorded with the Assignment Branch of the Office at Reel/Frame 3838/0075 on August 20, 2008.

Discovery period to close: **Closed**

Thirty-day testimony period for party in position of plaintiff to close: **May 2, 2009**

Thirty-day testimony period for party in position of defendant to close: **July 1, 2009**

Fifteen-day rebuttal testimony period to close: **August 15, 2009**

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.

**NEWS FROM THE TTAB:**

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>