

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

Mailed: August 10, 2006

Opposition No. **91168183**

U.S. Bariatric, LLC

v.

Elaine F. Kommers

Jyll S. Taylor, Attorney:

On June 20, 2006, the Board issued an order granting applicant's consented motion to suspend this proceeding to allow the parties time to discuss settlement. In that order, the Board noted that this proceeding would resume on August 20, 2006 without further notice or order from the Board on the schedule set forth in the motion. That order is hereby modified as follows: This proceedings shall remain suspended except for all matters germane to opposer's motion to compel filed May 3, 2006. Applicant is allowed until **twenty days** from the resumption of this proceeding, i.e., until September 9, 2006 to file a response to the motion to compel.

If the parties resolved the discovery dispute, which is the subject of the motion to compel, during the course of

their settlement negotiations, the Board should be so informed.<sup>1</sup>

The parties are reminded that the suspension during the pendency of the motion to compel does **not** toll the time for either party to respond to discovery requests which had been duly served prior to the filing of the motion to compel, nor does it toll the time for a party to appear for a discovery deposition which had been duly noticed prior to the filing of the motion to compel. See Trademark Rule 2.120(e)(2).

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<sup>1</sup> In that regard, the parties are advised to review Carla Calcagno, *Tips from the TTAB: Discovery Practice under Trademark Rule 2.120(d)(1)*, 80 TMR 285, 288-89 (1990).