

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

Mailed: February 15, 2007

Opposition No. 91171054

North American Medical  
Corporation

v.

Axiom Worldwide, Inc.

**David Mermelstein, Administrative Trademark Judge:**

Now before the Board is opposer's emergency motion for protective order and extension of the discovery period, filed January 30, 2006.<sup>1</sup> Opposer filed a response on February 5, 2007.

A brief telephone conference was held to discuss the matter on February 14, 2007. Participating were Stephen Dorvee for opposer, Patrick Arnold, Jr. for applicant, and the above Board judge.

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<sup>1</sup> When time is of the essence, the parties can contact the Board interlocutory attorney assigned to the case to request a telephone conference prior to filing the moving papers or prior to filing a response. Otherwise, it is unlikely that an unconsented motion will be decided in less than thirty days after filing. Either party may request a telephone conference, but the Board will not normally hold a conference on a fully-briefed motion. See Notice, Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board, 1235 TMOG 68 (June 20, 2000).  
[www.uspto.gov/web/offices/com/sol/og/2000/week25/pattele.htm](http://www.uspto.gov/web/offices/com/sol/og/2000/week25/pattele.htm)

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In reviewing the parties' written submissions, it became apparent to the Board that the parties are engaged in a civil proceeding which may have a bearing on this case.<sup>2</sup> Trademark Rule 2.117(a). The matter now before the U.S. District Court involves, *inter alia*, a claim for infringement of the WE SELL SCIENCE mark, which is the subject of the application at issue in this proceeding. Among other relief, North American, the opposer herein and the plaintiff in the civil matter, has requested a permanent injunction on the applicant's use of the applied for mark. *See North American Medical Corp. v. Axiom Worldwide, Inc.* 1:06-cv-01678-JTC (N.D. Ga. filed July 14, 2006). The parties confirmed the Board's understanding during the telephone conference.

Because the parties' civil suit "may have a bearing on this proceeding," this opposition proceeding is SUSPENDED pending a final determination of the civil suit. Within twenty days of such a determination, the parties shall bring the resolution to the attention of the Board, and have this matter called up for whatever action may be appropriate.

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<sup>2</sup> The Board should have been informed of the existence of the civil matter months ago. Proceeding with two parallel lawsuits, one of which may affect or even be dispositive of the other, is wasteful of judicial resources and those of the parties, and could lead to inconsistent results. For these and other reasons explained elsewhere, see TBMP § 510.02 (2d ed. rev. 2004) (and authorities cited therein), the Board prefers to suspend such proceedings, and expects the parties to inform us of their pendency so that we may consider doing so.

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During the course of the suspension, the Board shall promptly be advised of any change of address for the parties or their counsel.

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