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

MBA

Mailed: May 13, 2009

Opposition No. 91189853

Arysta LifeScience Corporation, Arysta LifeScience North America LLC and Arysta LifeScience America Inc.

v.

Agrium Inc.

Michael B. Adlin, Interlocutory Attorney:

The Board's order of May 13, 2009 is hereby modified to reflect that opposer filed its original and amended notices of opposition on the same day, without an accompanying motion for leave to amend and without applicant's consent to an amendment, but prior to the filing of a responsive pleading. The claims in the amended notice of opposition are the same as the claims in the original notice of opposition, but opposer has pled ownership of additional registrations.

Pursuant to Fed. R. Civ. P. 15(a), a party to an inter partes proceeding before the Board may amend its pleading once as a matter of course at any time before a responsive pleading is served. An amendment filed as a matter of course need not be accompanied by a motion for leave to

amend. *See also* Beth A. Chapman, *TIPS FROM THE TTAB: Amending Pleadings: The Right Stuff*, 81 Trademark Rep. 302(1991).

Inasmuch as there has been no responsive pleading filed in this case, opposer's amended notice of opposition is now opposer's operative pleading herein. Applicant is allowed until **June 13, 2009** to answer or otherwise move with respect to the amended notice of opposition. Disclosure, conferencing, discovery, trial and other dates are reset as follows:

Time to Answer	**June 13, 2009**
Deadline for Discovery Conference	**July 13, 2009**
Discovery Opens	**July 13, 2009**
Initial Disclosures Due	**August 12, 2009**
Expert Disclosures Due	**December 10, 2009**
Discovery Closes	**January 9, 2010**
Plaintiff's Pretrial Disclosures	**February 23, 2010**
Plaintiff's 30-day Trial Period Ends	**April 9, 2010**
Defendant's Pretrial Disclosures	**April 24, 2010**
Defendant's 30-day Trial Period Ends	**June 8, 2010**
Plaintiff's Rebuttal Disclosures	**June 23, 2010**
Plaintiff's 15-day Rebuttal Period Ends	**July 23, 2010**

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

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

***