

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

Mailed: November 15, 2012

Opposition Nos. 91205774 (parent)
91205777
91205865

Baxano, Inc.

v.

Extremity Medical, LLC

**Robert H. Coggins,
Interlocutory Attorney:**

Consolidation

On September 19, 2012, applicant filed (in each proceeding) a motion to consolidate Opposition Nos. 91205774, 91205777, and 91205865. The parties correctly note that these proceedings involve similar marks and similar questions of law and fact. In view thereof, the motions to consolidate are granted. Accordingly, the above-noted opposition proceedings are consolidated and may be presented on the same record and briefs. The Board file will be maintained in Opposition No. 91205774 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding. Only a single

copy of each paper should be filed by the parties, and each paper should bear the case caption as set forth above.

In accordance with standard Board practice, dates for this consolidated proceeding are reset on the schedule for the latest instituted proceeding. For the parties' convenience, remaining dates on that schedule are listed below.

Expert Disclosures Due	2/5/2013
Discovery Closes	3/7/2013
Plaintiff's Pretrial Disclosures	4/21/2013
Plaintiff's 30-day Trial Period Ends	6/5/2013
Defendant's Pretrial Disclosures	6/20/2013
Defendant's 30-day Trial Period Ends	8/4/2013
Plaintiff's Rebuttal Disclosures	8/19/2013
Plaintiff's 15-day Rebuttal Period Ends	9/18/2013

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

Protective Agreement

Opposer's consented motion (filed October 22, 2012, in Opposition Nos. 91205774, 91205777, and 91205865) to modify the standard protective agreement is approved. The parties are referred, as appropriate, to TBMP §§ 412.03 (Duration of

Protective Order), 412.04 (Filing Confidential Materials With Board), and 412.05 (Handling of Confidential Materials by Board). The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing Trademark Rules 2.27(d) and (e), which provide, in essence, that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection.