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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048656
Party	Plaintiff ICU Medical, Inc.
Correspondence Address	Kimberly Van Voorhis, Erika Yawger Morrison & Foerster LLP 755 Page Mill Rd. Palo Alto, CA 94304 UNITED STATES kvanvoorhis@mofo.com, eyawger@mofo.com
Submission	Other Motions/Papers
Filer's Name	Erika L. Yawger
Filer's e-mail	eyawger@mofo.com, kvanvoorhis@mofo.com
Signature	/ELY/
Date	10/22/2009
Attachments	2009-10-22 Neutral Displacement.pdf ( 30 pages )(1472846 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ICU MEDICAL, INC.,

Petitioner,

v.

RYMED TECHNOLOGIES, INC.,

Respondent.

Cancellation No. 92048656

Mark: NEUTRAL DISPLACEMENT  
Reg. No. 3337575

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dated: October 22, 2009

**NOTIFICATION OF ORDER AND JUDGMENT IN RELATED CIVIL LITIGATION**

Petitioner ICU Medical, Inc. (“ICU” or “Petitioner”) hereby notifies the Board of recent activities in the matter, *Rymed Technologies, Inc. v. ICU Medical, Inc.*, Case No. SA CV-07-1199 MRP (VBKx), pending in the United States District Court for the Central District of California.

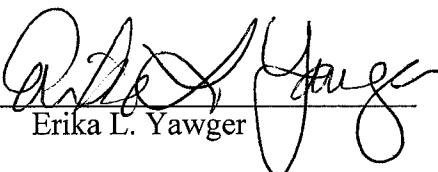
On April 22, 2009, the Court issued an order, attached hereto as Exhibit A, granting ICU’s motion for partial summary judgment on the trademark claims and holding that the “NEUTRAL DISPLACEMENT” mark at issue in this cancellation proceeding is generic and not entitled to any trademark protection.

On October 8, 2009, the Court issued an order granting ICU's counterclaims 1 through 4 for invalidity and cancellation of the "neutral" and "neutral displacement" trademarks, and dismissing as moot counterclaim 5 for non-infringement. The Court further ordered that pursuant to 15 U.S.C. § 1119, the Director of the Patent and Trademark Office shall cancel U.S. Registration No. 3,337,575 for the term "neutral displacement." Attached hereto as Exhibit B is a true and correct copy of the October 8, 2009 Order.

On October 8, 2009, the Court also entered final judgment in ICU's favor. Attached hereto as Exhibit C is a true and correct copy of the Court's October 8, 2009 Judgment.

RyMed has not appealed the District Court's decision, and the time for appeal will expire on November 9, 2009. Petitioner will notify the Board when the judgment in the civil action is deemed final pursuant to § 510.02(b).

MORRISON & FOERSTER LLP

By:   
Erika L. Yawger

Morrison & Foerster, LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5600  
Facsimile: (650) 494-0792

Attorneys for Petitioner  
ICU MEDICAL, INC.

# Exhibit A

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**RyMed Technologies, Inc.,**  
Plaintiff,  
v.  
**ICU Medical, Inc.,**  
Defendant.

Case No. 8:07-CV-1199 MRP (VBKx)  
**ORDER GRANTING ICU MEDICAL,  
INC.'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

**I. Background**

A. Procedural History

ICU Medical, Inc. ("ICU") brought suit against RyMed Technologies, Inc. ("RyMed") for patent infringement in the District of Delaware on July 27, 2007. RyMed then filed this suit in the Central District of California on October 10, 2007 for declaratory judgment of non-infringement and patent invalidity, together with state and federal trademark and related claims.<sup>1</sup> The patent claims were transferred

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<sup>1</sup> RyMed's claims include federal claims under the Lanham Act: trademark infringement (15 U.S.C. § 1114), false designation of origin, and unfair competition (§ 1125(a)); claims under California law: unfair competition (Cal. Bus. & Prof. Code §§ 17200, 17500); common law passing off and unfair competition; intentional interference with contract; and intentional interference

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