

ESTTA Tracking number: **ESTTA578403**

Filing date: **12/23/2013**

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

Proceeding	85627379
Applicant	Hughes Furniture Industries, Inc.
Applied for Mark	H HUGHES FURNITURE MOTION EAZE RECLINERS
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Submission	Applicants Request for Remand and Amendment
Attachments	Hughes Furniture Request for Remand.pdf(197275 bytes)
Filer's Name	Alan B. Felts
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Signature	/Alan B. Felts/
Date	12/23/2013

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Serial Number : 85627379
Mark : H HUGHES FURNITURE MOTION EAZE RECLINERS
Applicant : Hughes Furniture Industries, Inc.
Filing Date : May 16, 2012
Examining Attorney : Alicia Collins Edwards
Law Office 115

REQUEST FOR REMAND AND AMENDMENT

COMES NOW the Applicant, Hughes Furniture Industries (“Hughes Furniture”), by Counsel, and, pursuant to TBMP § 1205, hereby moves the Board to remand the present appeal for the Examining Attorney’s consideration of the following proposed amendment to the application’s disclaimer:

“No claim is made to the exclusive right to use ‘FURNITURE’ and ‘MOTION’ and ‘RECLINERS’ apart from the mark as shown.”

In support of this request, Applicant shows the Board the following:

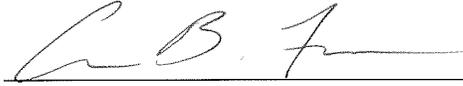
1. In the Examining Attorney’s non-final Office Action issued on September 13, 2012, the Examining Attorney requested that Applicant disclaim the words “FURNITURE,” “MOTION” and “RECLINERS” from the application.
2. In Applicant’s March 13, 2013 response to the non-final Office Action, Applicant agreed to the disclaimers for “FURNITURE” and “RECLINERS,” but requested “MOTION” not be disclaimed given Applicant’s trademark rights in another U.S. Trademark Registration that included “MOTION.”

3. The Examining Attorney amended the application on March 15, 2013 to disclaim “FURNITURE” and “RECLINERS.”
4. In addition to the Lanham Act Section 2(d) refusal that the Examining Attorney maintained in her Final Refusal of Registration on April 23, 2013, the Examining Attorney maintained her request that “MOTION” be disclaimed.
5. Subsequent to Applicant’s timely filing of its Notice of Appeal of the Examining Attorney’s final refusal on October 23, 2013, Applicant’s attorney spoke with the Examining Attorney and indicated that Applicant did not seek to appeal the refusal based on the Lanham Act Section 6(a) disclaimer of “MOTION” and consented to an amendment adding “MOTION” to the disclaimer.
6. Because Applicant did not know whether the Examining Attorney would request the amendment herself, Applicant took no further action with respect to the consented amendment.
7. Applicant’s appeal brief deadline is December 23, 2013.
8. Out of an abundance of caution given the imminent holiday season, Applicant is timely filing its brief concurrently with this Request for Remand and Amendment.
9. Good cause exists for this amendment because this amendment will obviate one of the Examining Attorney’s grounds for refusal and narrow the issues the Board must consider.
10. This amendment is early in the appeal process and is being submitted before the Examining Attorney must consider the issue in her brief which, in turn, would narrow the issues the Examining Attorney must consider.

11. This Amendment is being requested in good faith.

WHEREFORE, Applicant respectfully requests the Board grant Applicant's request and remand the application to the Examining Attorney to consider Applicant's proposed amendment.

Respectfully submitted, this the 23rd day of December, 2013.



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NC State Bar No. 42826

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