

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

sh/apb

Mailed: July 3, 2002

Opposition No. 91113625

INNOVENTIONS, INC. (TEXAS)

v.

INNOVENTIONS, INC.
(MICHIGAN)

By the Trademark Trial and Appeal Board:

In an April 29, 2002 order, the Board deferred consideration of applicant's proposed amendment to application Serial No. 75/346,908 to allow the opposers in related Opposition Nos. 113,623 and 113,624 time to oppose or consent to the proposed amendment. Inasmuch as the Board has received no response from those opposers, the Board will consider the proposed amendment.

By the proposed amendment, applicant seeks to add the words "medical apparatus, namely" at the beginning of the identification and reclassify the goods in International Class 10. Because the proposed amendment to the identification of goods is limiting in nature as required by Trademark Rule 2.71(b), it is approved and entered.

However, the proposed reclassification in International Class 10 is inappropriate. The goods at issue, i.e., an "electronic magnifier, comprising a camera unit, video processor and a portable monitor or head-mount display for individuals with low or impaired vision conditions," are in the nature of optical apparatus and do not appear to be used for medical treatment. As such, notwithstanding applicant's use of the words "medical apparatus" at the beginning of the proposed amendment to the identification of goods, they are properly classified in International Class 9.¹ See TMEP Sections 1401.02(a) and 1401.03(b). Accordingly, the proposed reclassification of goods is unacceptable. See Trademark Rule 2.133(a).

On April 29, 2002, opposer filed a withdrawal of the opposition. Inasmuch as no answer is of record, the opposition is dismissed without prejudice. See Trademark Rule 2.106(c).

¹ Moreover, any amendment to the classification of goods after publication would require republication of the involved application following the disposition of this proceeding. See TMEP Section 1505.01(b).