

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

In the matter of Application Serial No. 78/076,494  
Filed: July 30, 2001  
Published on August 6, 2002 at TM 362

**H-D MICHIGAN, INC.**

*Opposer,*

v.

**ELECTROMECHANICA DYNA S.A.**

*Applicant.*

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**Opposition No. 91154344**

  
02-27-2003  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7:

**AGREED MOTION TO AMEND APPLICATION  
AND DISMISS OPPOSITION**

COMES NOW, ELECTROMECHANICA DYNA S.A. ("Applicant") and H-D MICHIGAN, INC. ("Opposer"), and make and file this agreed motion to amend Application Serial No. 78/076,494 and dismiss the present opposition related thereto on the following grounds:

1. Opposer filed the present opposition proceeding on grounds that consumer confusion would result if Applicant's application Serial No. 78/076,494 proceeded to registration with the currently pending identification of goods set forth therein.

2. Applicant timely filed its answer to the present opposition February 14, 2003. Applicant timely filed its first amended answer to the present opposition on February 18, 2003. In its first amended answer, Applicant set forth an additional affirmative defense alleging that it would be entitled to a registration of the disputed mark with an amended identification of goods

limiting application of the mark to certain goods namely, “windscreen wipers and windshield wipers for vehicles.”

3. Applicant and Opposer have agreed that the proposed amendment to the identification of goods set forth in Application Serial No. 78/076,494 will alleviate any potential likelihood of confusion and dilution between the Applicant’s mark and the marks of Opposer.

4. Opposer has agreed to withdraw the present opposition if said amendment to the identification of goods set forth in Application Serial No. 78/076,494, is approved by the Trademark Trial and Appeal Board.

5. Therefore, Applicant and Opposer request that the identification of goods in Application Serial No. 78/076,494 be amended to read as follows:

“Windscreen wipers and windshield wipers for vehicles.”

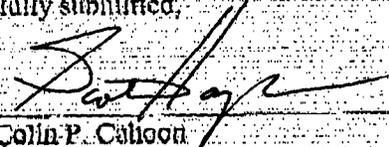
6. Applicant and Opposer have agreed to the merits of said amendment to Application Serial No. 78/076,494 and respectfully request that the Trademark Trial and Appeal Board:

- a. Grant this Agreed Motion for Amendment;
- b. Dismiss the present Opposition proceedings with prejudice to the refiling of same; and,
- c. Remand Application Serial No. 78/076,494 to the Examiner-Attorney for the requested amendment to the identification of goods to be entered and that a registration issue forthwith on the referenced application.

Dated this 27<sup>th</sup> day of February, 2003.

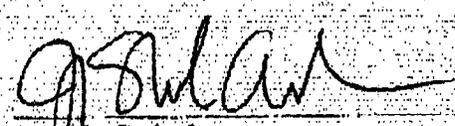
Respectfully submitted,

By:

  
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ATTORNEYS FOR  
ELECTROMECANICA DYNAS/A

Agreed to in form and substance:

By:

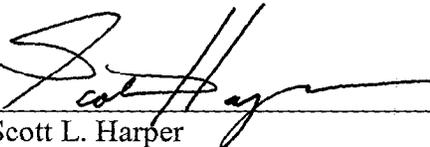
  
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H-D MICHIGAN, INC.

AGREED MOTION TO AMEND APPLICATION  
AND DISMISS OPPOSITION  
FILE NO. CCR07-00002

**CERTIFICATE OF MAILING UNDER 37 CFR § 1.10**

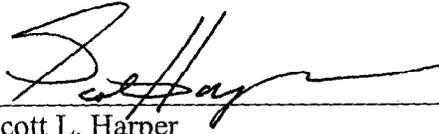
**MARK:** DYNA & Design  
**SERIAL NO.:** 78/076,494  
**OPPOSITION NO.:** 91154344  
**NAME OF PARTY  
FILING PAPERS:** ELECTROMECHANICA DYNA S/A  
**TYPE OF PAPERS:** AGREED MOTION TO AMEND APPLICATION  
AND DISMISS OPPOSITION

I hereby certify that the above-identified document is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service, Mail Label No.EV090930700US, addressed to Box TTAB, No Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on February 27, 2003.

  
\_\_\_\_\_  
Scott L. Harper

## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of Applicant Electromecanica Dyna S/A's Agreed Motion To Amend Application and Dismiss Opposition has been served on Jennifer S. Anderson, Esq., 315 W. Huron, #400, Ann Arbor, Michigan 48103, attorney for Opposer, via certified mail, return receipt requested, on this 27<sup>th</sup> day of February, 2003.

  
\_\_\_\_\_  
Scott L. Harper

**CERTIFICATE OF MAILING BY EXPRESS MAIL**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service, Mail Label No. EV090930700US addressed to the Assistant Commissioner for Trademarks, Box TTAB – NO FEE, 2900 Crystal Drive, Arlington, VA 22202-3513, under 37 CFR 1.10, on February 27, 2003.

*Beatrice Velez*

Beatrice Velez

Enclosures:

1. Transmittal Letter in Duplicate
2. **Agreed Motion to Amend Application and Dismiss Opposition**
3. Certificate of Mailing by Express Mail
4. Postcard Acknowledgement

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TTAB

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February 27, 2003

Via Express Mail Label No. EV090930700US

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Assistant Commissioner of Trademarks  
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Arlington, VA 22202-3513

02-27-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #77

Re: In the matter of Application Serial No. 78/076,494  
Opposition No. 91154344  
*H-D MICHIGAN, INC. v. ELECTROMECHANICA DYNA S.A.*, filed in the United  
States Patent and Trademark Office Before the Trademark Trial and Appeal  
Board  
*Agreed Motion to Amend Application and Dismiss Opposition*  
Our File: CCRUZ.00002

Dear Sir:

Enclosed for filing in the above-referenced opposition is the *Agreed Motion to Amend Application and Dismiss Opposition*.

No fee is enclosed with this filing. If it is determined that a fee is due, please charge any fee to our DEPOSIT ACCOUNT NO. 50-0392. This letter is being sent in duplicate should this be necessary.

Please date stamp and return the enclosed self-addressed, postage-prepaid postcard to confirm receipt of this filing.

If you have any questions, please contact the undersigned.

Very truly yours,

  
Scott L. Harper

Enclosures

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