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

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V SECRET CATALOGUE, INC. and	:
INTIMATE BEAUTY CORPORATION	:
D/B/A VICTORIA'S SECRET BEAUTY,	:
	:
Opposers,	:
v.	:
	Opposition
	No. 91,161,849
ZO BRANDS, LLC,	:
(formerly JONATHAN POSNARD and	:
ZOPPINI, LLC,	:
Applicant.	:
-----X	

APPLICANT'S REPLY TO OPPOSERS' RESPONSE IN OPPOSITION TO
APPLICANT'S MOTION TO AMEND APPLICATION

Applicant Zo Brands, LLC hereby files its Reply in response to Opposers' Response in Opposition to Applicant's Motion to Amend Application.

Applicant respectfully requests that the Board consider this Reply, as it addresses issues raised for the first time in Opposers' Response.

Applicant filed its Motion to Amend Application to merely delete "electric hair curlers and electric hair curling irons" in International Class 009 from its identification of goods. Opposers have objected to Applicant's Motion. Opposers in their response state that it will be prejudiced by the granting of Applicant's application as goods will be deleted from the application as originally opposed, without Opposers having the opportunity to take discovery with respect to such goods. Applicant respectfully submits that Opposers' reasoning for



01-25-2005

objecting to the Motion are flawed for several reasons given the nature of relief available in an Opposition proceeding.

Initially, Applicant notes that in Opposition proceedings the remedy sought by an opposer is for the Board to not grant a registration for a mark with respect to certain goods or services listed in a pending application. Accordingly, by Applicant deleting the above-identified goods from its application, on its own initiative, opposers have achieved the sole remedy available in an opposition proceeding with respect to these goods without having to go through the time, cost and expense of proving its position to the Board.

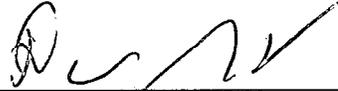
Additionally, assuming, arguendo, if Opposers prevail in the Opposition with respect to all goods originally filed by Applicant, the Opposition does not affect Applicant's rights to continue to use the mark in commerce if Applicant was in fact using the mark with respect to the goods in questions. Thus, the fact that Applicant may still use the goods in question in commerce even despite their removal from the application, does not provide a basis for objection to Applicant's Motion as any ruling from the Board in this Opposition does not address Applicant's ability to use the mark in commerce. Opposers would have to initiate court litigation in order to prevent use by Applicant of the Zo Zexy mark in commerce.

Applicant also notes that even with the deletion of the above-noted goods from the application, the fact that they originally appeared in the application seems to make such goods relevant under the rules of evidence for discovery purposes such that Opposers would be able to serve discovery with respect to the above-noted goods once the Opposition resumes.

Accordingly, in view of the above, Applicant respectfully submits that Opposers' reasons for not providing consent to Applicant's Motion to Amend, do not provide any justification for the denial of Applicant's Motion to Amend. Accordingly, Applicant

respectfully requests that the Board grant its Motion to Amend and delete the above-noted goods from the application.

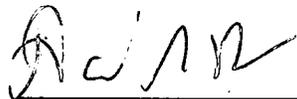
Respectfully Submitted,



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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing APPLICANT'S REPLY TO OPPOSERS' RESPONSE IN OPPOSITION TO APPLICANT'S MOTION TO AMEND APPLICATION has been forwarded via First Class Mail, postage prepaid, to Opposer's attorney of record Frank J. Colucci, at Manhattan Tower, 101 East 52nd Street, New York, New York 10022 this 21 day of January, 2005.



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