

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: July 5, 2007

Opposition No. 91168979

Alstom

v.

Astom Co., Ltd.

Andrew P. Baxley, Interlocutory Attorney:

On June 25, 2007, the parties filed a stipulation to amend applicant's involved application Serial No. 76556692 and to withdraw the opposition upon entry of the amendment.

By the proposed amendment, applicant seeks to change the identification of goods in International Class 7 **from** "electrodialysis machines for desalting of acid and/or alkali, concentration of acid and/or alkali, concentration of metal salt, preparation of acid and/or alkali from salts, and/or preparation of organic acid from salts of organic acid; electrodialysis machines for electrical removal of heavy metals present in soil; electrodialysis machines for preparation of salt by concentration of seawater, control of acidity of fruit juice, preparation of salt-reduced soy sauce, desalting and purification of aqueous solution of amino acids, treatment of dairy products, and/or desalting of whey; diffusion dialysis machines for recovery of acid or

alkali; chemical processing machines and apparatus for extracting, filtering, separating, grinding, mixing, agitating and/or making chemicals for industrial and commercial use for use in the chemical industries; machines and apparatus for filtering, separating, drying and mixing of ingredients in food and beverages for use in food or beverage processing, used for the purposes of demineralization of cheese whey, organic acids, amino acids, natural extract, poly-saccharide or betaine, desalination of soy sauce, stabilization of wine, demineralization and deacidification of fruit juice, and/or demineralization and purification of pharmaceutical intermediate and/or molasses; machines and apparatus for use in food or beverage processing; electrodeposition painting machines and apparatus comprising of an ion exchange membrane used for painting automobile body, construction materials and home electric appliances with an epoxy resin-based or acrylic resin-based painting; painting machines and apparatus used for forming an epoxy resin-based or acrylic resin-based painting layer on automobile body or aluminum sash" to "electrodialysis machines for desalting of acid and/or alkali, concentration of acid and/or alkali, concentration of metal salt, preparation of acid and/or alkali from salts, and/or preparation of organic acid from salts of organic acid; electrodialysis machines for electrical removal of

heavy metals present in soil; electro dialysis machines for preparation of salt by concentration of seawater, control of acidity of fruit juice, preparation of salt-reduced soy sauce, desalting and purification of aqueous solution of amino acids, treatment of dairy products, and/or desalting of whey; diffusion dialysis machines for recovery of acid or alkali; electro dialysis machines and/or diffusion dialysis machines for extracting, filtering, separating, grinding, mixing, agitating and/or making chemicals for industrial and commercial use for use in the chemical industries; electro dialysis machines and/or diffusion dialysis machines for filtering, separating, drying and mixing of ingredients in food and beverages for use in food or beverage processing, used for the purposes of demineralization of cheese whey, organic acids, amino acids, natural extract, poly-saccharide or betaine, desalination of soy sauce, stabilization of wine, demineralization and deacidification of fruit juice, and/or demineralization and purification of pharmaceutical intermediate and/or molasses; electro dialysis machines and/or diffusion dialysis machines for use in food or beverage processing; electrodeposition painting machines and apparatus comprising of an ion exchange membrane used for painting automobile body, construction materials and home electric appliances with an epoxy resin-based or acrylic resin-based painting; electrodeposition painting

machines and apparatus used for forming an epoxy resin-based or acrylic resin-based painting layer on automobile body or aluminum sash." The identifications of goods in International Classes 1 and 9 remain unchanged.

The proposed amendment is limiting in nature, as required by Trademark Rule 2.71(a), and opposer has stipulated thereto. However, the proposed amended identification of goods is unacceptable as indefinite. See TMEP Section 1402 et seq. (4th ed. 2005). In particular, the wording "electrodialysis machines and/or diffusion dialysis machines" presents a choice between two types of machines and is therefore unacceptable.¹

The parties are allowed until thirty days from the mailing date set forth in the caption of this order to file with the Board an acceptable amended identification of goods, failing which this proceeding will go forward based on the current identification of goods.

¹ Applicant may amend the identification to use the wording "electrodialysis machines and diffusion dialysis machines" instead.