

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

vb/mcf

Mailed: July 16, 2007

Opposition No. 91169178

AB Melka

v.

Michael James Poyzer

Thomas W. Wellington,  
Administrative Trademark Judge:

On July 3, 2007, applicant filed a stipulated proposed amendment to application Serial No. 78387272 and withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment, applicant seeks to change the identification of goods **from:**

"Clothing namely shirts and t shirts, blouses, skirts and dresses, vests, sweatshirts and hooded tops, sweaters, cardigans, underwear, trousers and jeans, gloves and mittens, jackets, overcoats and rainwear; Footwear, namely boots and shoes, including those designed for attaching to bicycle pedals plus the cleats and any other required hard wear, socks, overshoes and shoe liners all for everyday use or specifically designed for sporting activities; Headgear, namely hats, caps, bandanas, balaclavas, sweatbands, earwarmers."

to:

"Clothing namely shirts and t shirts, blouses, skirts and dresses, vests, sweatshirts and hooded tops, sweaters, cardigans, underwear, trousers and jeans, gloves and mittens, jackets, overcoats and rainwear; Footwear,

namely boots and shoes, including those designed for attaching to bicycle pedals plus the cleats and any other required hard wear, socks, overshoes and shoe liners all for everyday use or specifically designed for sporting activities; Headgear, namely hats, caps, bandanas, balaclavas, sweatbands, earwarmers; all of the foregoing goods being for marketing purposes in support and promotion of a particular brand of bicycles and bicycle equipment."

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and because opposer consents thereto, it is approved and entered.<sup>1</sup> See Trademark Rule 2.133(a).

The contingency in opposer's withdrawal having now been met, the opposition is dismissed without prejudice.

We note that applicant has not withdrawn its counterclaim filed against Registration No. 2992664.

Accordingly, applicant is allowed until **thirty days** from the mailing date stamped on this order to withdraw the counterclaim, failing which proceedings on the counterclaim will go forward.

Proceedings on the counterclaim are hereby suspended to allow applicant time to file a withdrawal of the counterclaim. In the event proceedings on the counterclaim are resumed, discovery and trial dates will be reset.

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<sup>1</sup> International Class 12 remains unchanged.