

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

nmt

Mailed: January 14, 2010

Opposition No. 91181143

Renee Claire Inc.

v.

MLB/TIGI Products, LP and
Unilever PLC (joined as
party defendant)

Frances S. Wolfson, Interlocutory Attorney:

On December 4, 2010, applicant filed a motion to substitute party and a proposed amendment to its application Serial No. 78927189, without opposer's consent.

If the mark in an application or registration which is the subject matter of an *inter partes* proceeding before the Board is assigned, and the assignment is recorded in the Assignment Branch of the USPTO, the assignee may be substituted as a party if the assignment occurred prior to the commencement of the proceeding, or the assignor is no longer in existence, or the plaintiff raises no objection to substitution, or the discovery and testimony periods have closed; otherwise, the assignee will be joined, rather than

substituted, to facilitate discovery. See TBMP § 512.01 (2d ed. rev. 2004).

Applicant's pleaded mark was assigned to Unilever PLC during this proceeding and such assignment was recorded with the Assignment Branch of the Office on July 31, 2009 at Reel/Frame 4035/0335. There is no indication that the assignor is no longer in existence, or that plaintiff raises no objection to the substitution. Discovery has not yet opened, and will be facilitated by joinder rather than substitution. Accordingly, Unilever PLC is joined as party defendant.

Applicant further proposes to amend the identification of goods of its application, in International Class 25, as follows:

from

"Infant, children and adult clothing, namely, anklets, anoraks, aprons, athletic uniforms, baby booties, baby bunting, baby rompers, baby sleepers, bandannas, cloth bibs, sweat bands, wrist bands, bathing suits, bathing trunks, beach cover-ups, beachwear, belts, blazers, blouses, brassieres, briefs, cheerleader outfits, cloth diapers, coats, leather coats, rain coats, sport coats, waistcoats, jackets, leather jackets, coveralls, fleece coveralls, infant coveralls, infant wear, dresses, dungarees, ear muffs, foul weather gear, gloves, shirts, golf shirts, knit shirts, night shirts, polo shirts, rugby shirts, sport shirts, sweatshirts, t-shirts, tops, halter tops, tank tops, shorts, boxer shorts, gym shorts, sweat shorts, hosiery, jumpers, jumpsuits, leg warmers, lingerie, loungewear, mittens, negligees, neck bands, neckerchiefs, neckwear, night gowns, pajamas, pants, lap pants, balloon pants, pantsuits, slacks, ski pants, snow

pants, sweat pants, panties, parkas, ponchos, rainwear, robes, scarves, shower caps, ski wear, skirts, sleepwear, slippers, smocks, socks, sweat socks, thermal socks, stockings, suits, body suits, gym suits, jogging suits, fleece jogging suits, play suits, sun suits, sweat suits, tracksuits, vested suits, warm-up suits, wind suits, suspenders, sweaters, turtleneck sweaters, v-neck sweaters, swim wear, swim trunks, swimsuits, teddies, tennis wear, ties, bow ties, neck ties, tights, trousers, turtlenecks, tuxedos, underpants, undershirts, underwear, thermal underwear, veils, vests, fishing waders; footwear, namely, shoes, clogs, golf shoes, thongs, slippers, sneakers; headwear, namely, berets, caps, baseball caps, bathing caps, hats, head bands, visors, sun visors; costumes, namely, Halloween costumes, masquerade costumes, swimming costumes; and uniforms"

to

"Infant, children and adult clothing, namely, anklets, anoraks, aprons, athletic uniforms, baby booties, baby bunting, baby rompers, baby sleepers, bandannas, cloth bibs, sweat bands, wrist bands, bathing suits, bathing trunks, beach cover-ups, beachwear, belts, blazers, blouses, brassieres, cheerleader outfits, cloth diapers, coats, leather coats, rain coats, sport coats, waistcoats, jackets, leather jackets, coveralls, fleece coveralls, infant coveralls, infant wear, dresses, dungarees, ear muffs, foul weather gear, gloves, shirts, golf shirts, knit shirts, polo shirts, rugby shirts, sport shirts, sweatshirts, t-shirts, tops, halter tops, tank tops, shorts, gym shorts, sweat shorts, hosiery, jumpers, jumpsuits, leg warmers, mittens, neck bands, neckerchiefs, neckwear, pants, lap pants, balloon pants, pantsuits, slacks, ski pants, snow pants, sweat pants, panties, parkas, ponchos, rainwear, scarves, shower caps, ski wear, skirts, smocks, socks, sweat socks, thermal socks, stockings, suits, body suits, gym suits, jogging suits, fleece jogging suits, play suits, sun suits, sweat suits, tracksuits, vested suits, warm-up suits, wind suits, suspenders, sweaters, turtleneck sweaters, v-neck sweaters, swim wear, swim trunks, swimsuits, teddies, tennis wear, ties, bow ties, neck ties, tights, trousers, turtlenecks, tuxedos, underpants, undershirts, underwear, thermal underwear, veils, vests, fishing waders; footwear,

namely, shoes, clogs, golf shoes, thongs, sneakers; headwear, namely, berets, caps, baseball caps, bathing caps, hats, head bands, visors, sun visors; costumes, namely, Halloween costumes, masquerade costumes, swimming costumes; and uniforms."

Insofar as the application is subject to the Board's jurisdiction within the context of this opposition proceeding, Trademark Rule 2.133 applies. In accordance with the provisions thereof, an application which is the subject of a Board *inter partes* proceeding may not be amended in substance, except with the **consent** of the other party or parties and the approval of the Board, or upon motion. See 37 CFR §2.133(a). Decision on an unconsented motion to amend an identification of goods in an application subject to a Board proceeding is typically deferred until final decision on the case.

In view of the foregoing, opposer is allowed until **twenty days** to file its consent to applicant's proposed amendment, failing which consideration of applicant's proposed amendment will be deferred until determination of this proceeding at final decision or upon summary judgment.

Proceedings herein are otherwise suspended.