

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

Winter/tlc

Mailed: September 30, 2008

Opposition No. 91183936

Hollywood Chamber of  
Commerce

v.

Hollywood Mobile, Inc.

**Elizabeth J. Winter, Interlocutory Attorney:**

On July 28, 2008, applicant filed a proposed amendment to its application Serial No. 78597638, with opposer's consent. By the amendment, applicant seeks to amend the drawing of the mark to comprise a modification of the word "HOLLYWOOD" such that the letters are no longer "staggered" or unevenly aligned.

***Proof of Service***

The Board also notes that on July 22, 2008, applicant filed a document that appears to be opposer's emailed consent to suspend this matter pending the Board's approval of the proposed amendment, and that on June 17, 2008, applicant submitted a request for a sixty-day extension of time to file its answer. On July 22, 2008, the Board issued an order advising applicant that compliance with Trademark

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Rule 2.119 is required, that the Board would send a copy of applicant's June 17, 2008 submission to opposer's counsel, and that applicant's motion to extend time would be considered in due course. However, the Board's order was issued on the same date as applicant's July 22 submission and that submission did not include proof of service upon opposer's counsel as required by Trademark Rule 2.119. Thus, it appears as if the Board's order and applicant's July 22 submission "crossed" in the mail.

In view of the fact that opposer has not contested applicant's motion for an extension of time to file its answer, the parties appear willing to settle this matter, and applicant did provide proof of service on opposer for its July 28th filing, applicant's motion for an extension of time is granted to the extent that this proceeding is hereafter suspended pending applicant's response to this order. See Trademark Rules 2.127(a) and 2.117(c). Also, to expedite this proceeding, a copy of applicant's July 22, 2008 submission will be sent to opposer's counsel, along with a copy of this order.

***Proposed Amendment***

While the amendment of the mark to slightly adjust the alignment of the word "HOLLYWOOD" would be acceptable under Trademark Rule 2.72(b)(2) because it does not materially alter the mark, and opposer has consented thereto in

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accordance with Trademark Rule 2.133(a), applicant failed to submit (1) a color drawing of the amended mark and (2) a specimen showing use of the mark as amended, which is properly supported by a verification or declaration under Trademark Rule 2.20. Specifically, the drawing of the mark must show the colors in the color description in the application; and the specimen (i) must show use of the mark in the sale or advertising of the applicant's International Class 38 services and (ii) must be accompanied by a verification or declaration under Trademark Rule 2.20 stating that the substitute specimen is in use in commerce.<sup>1</sup> See Trademark Rules 2.20, 2.52(b)(1), 2.59(b) and 2.72(b)(1); and TMEP §§ 807.07(a) *et seq.*, 904.05, and 1104.09(e) (5th ed. 2007).

In view of the foregoing, consideration of applicant's proposed amendment is **deferred**.

Accordingly, applicant is allowed **FORTY-FIVE DAYS** from the mailing date of this order to provide a color drawing of the proposed revised mark, a specimen of use, and a proper declaration in support thereof, failing which the proposed amendment will not be considered.

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<sup>1</sup> If the applicant cannot provide an acceptable substitute specimen supported by an affidavit or declaration of use in commerce, the applicant may amend the basis for its services in International Class 38 to §1(b) ("intent to use"). See TMEP §§ 806.03 *et seq.* (5th ed. 2007) regarding amendments to the basis.

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Should applicant meet the requirements to support its proposed amendments, opposer may also submit its withdrawal of the opposition proceeding conditional on the Board's acceptance of the revised drawing, specimen of use and declaration in support thereof. See Trademark Rule 2.106(c).

This proceeding is **SUSPENDED**. If this proceeding resumes, dates, including the due date for filing an answer will be reset.



**NEWS FROM THE TTAB:**

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stdnagmnt.htm>