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

Proceeding	91186456
Party	Defendant Dossey, Linda Norcross
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Monster Cable Products, Inc.

Opposer

v.

Linda Norcross Dossey

Applicant

Opposition No. 91186456

Serial No. 77200933

MOTION TO AMEND THE MARK IN THE APPLICATION

Pursuant to 37 CFR §2.72 and 2.133, Applicant seeks to amend the mark shown in the application from block letter to a special form drawing. This application is being filed with the TTAB which has jurisdiction over the application. The proposed amendment does not materially alter the mark, nor does it change the commercial impression of the mark.

The “material alteration” standard is the standard for evaluating amendments to marks during examination of the application. T.M.E.P. § 1609.02(a). The test for determining whether a proposed amendment to a mark constitutes a material alteration is “whether the old and new forms of the mark create essentially the same commercial impression.” T.M.E.P. § 807.14.

The original mark MONSTER MASHER and the amended mark  are nearly the same; the only difference between the two is the change to show the words in a stylized format. Applicant respectfully submits that amending the original mark from block letter to the proposed stylized mark does not change the commercial impression of the mark.

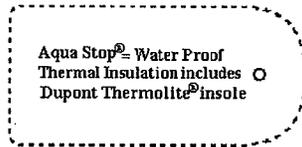
This amendment is supported by the Board’s holding in Paris Glove of Canada, Ltd. v. SBC/Sporto Corp., 84 USP2d 1856 (TTAB 2007). In Paris Glove, the Petitioner sought to cancel a registration for the mark AQUA STOP in the rectangular form shown here:

**AQUA
STOP**

The registration was renewed in 2002, and in 2005 Respondent sought to amend the mark to the form shown below, which matched its 2002 specimen of use:

AQUASTOP

Respondent admitted that it no longer used the mark in the original, rectangular form, but rather in the semicircular form shown above, and in a linear form shown below on the back of its hangtags:



The same "material alternation" standard is the standard for evaluating whether a change in the form of a registered mark is permissible. Petitioner claimed the change in form of the mark constituted a "material alteration" of the mark, resulting in abandonment of the registered rectangular mark. The Board, however, found the old and new versions to be "substantially the same" and that there is no material alteration because "the commercial impression of the mark is dependent upon the literal terms AQUA STOP and not on the rectangular, semicircular or linear forms of display."

See also Ex parte Squire Dingee Co., 81 USPQ 258, recon. Denied, 81 USPQ 543 (Comm'r Pats. 1949) (cited in Paris Glove) (amendment from rectangular lettering to script not a material alteration)

Here, the commercial impression of the mark in the old and new version is dependent upon the literal terms MONSTER MASHER and not on the ballooned font used in the new version.

In view of the foregoing, Applicant believes that the amendment to the mark is acceptable.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 5/13/2009

By: 

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing MOTION TO AMEND THE MARK IN THE APPLICATION upon Opposer's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on May 13, 2009, addressed as follows:

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