

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

RK/nmt

Mailed: January 31, 2011

Opposition No. 91195184

Family Time Sporting
Apparel, LLC

v.

Tex-Ray Industrial Co., Ltd.

Yong Oh (Richard) Kim, Interlocutory Attorney:

On January 26, 2011, applicant filed a proposed amendment to its application Serial No. 77744327, with opposer's consent. By the proposed amendment, applicant seeks to change the identification of goods in International Class 25 as follows:

From: *"brassieres; vests; overcoats; ready-made clothing, namely, knit tops and bottoms, woven shirts and bottoms, coats, jackets, gloves, underwear and socks; shoes; scarves; turbans; hats; footwear; mittens"*

To: *"brassieres; vests; overcoats; ready-made clothing, namely, knit tops and bottoms, woven shirts and bottoms, coats, jackets, gloves, underwear and socks; shoes; scarves; turbans; hats; footwear; mittens; all of the foregoing excluding children's athletic wear, and limited to clothing that incorporates "smart" technological material, components or systems for recharging electrical devices, providing light displays, playing digital music, providing*

impact resistant body protection, taking digital photographs, monitoring personal health statistics, or other smart functions."

The proposed amendment is unacceptable to the extent that the additional wording identifies goods that may be classified in additional classes. For instance, the description "providing impact resistant body protection" modifies the articles of clothing so as to describe protective clothing which is a Class 9 good. Additionally, the description "or other smart functions" is an open-ended descriptor that leaves the identification indefinite. Accordingly, applicant's motion to amend its application is **DENIED**.

Proceedings remain as last reset by the parties' consented motion filed on November 22, 2010.

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