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

Proceeding	91197505
Party	Defendant Alpha Phi Omega
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OMEGA, S.A.,

OPPOSER,

v.

ALPHA PHI OMEGA,

APPLICANT.

Opposition No. 91197505

Serial No. 77905236

**CONDITIONAL MOTION TO AMEND RECITATION OF GOODS
PURSUANT TO TBMP § 514.03**

Comes the Applicant, Alpha Phi Omega, and by counsel it submits this Conditional Motion to Amend Recitation of Goods Pursuant to TBMP § 514.03.

BOARD APPROVAL TO FILE MOTION

As required by the order of the Board entered in the parent of this proceeding (91197504) on March 4, 2015 (Docket Item 72), the undersigned certifies that he and his opposing counsel conferred telephonically with Interlocutory Attorney, Geoffrey McNutt on June 20, 2016, at which time, Mr. McNutt granted approval for Applicant to file this motion.

MOTION

In support of this motion, Applicant submits the following:

1. This opposition relates to Applicant's application to register the Greek alphabet letter equivalent of Alpha Phi Omega, namely the mark, ΑΦΩ, for "Headwear; Jackets; Shirts; Sweat shirts."
2. In this opposition proceeding, Opposer asserts that use of the mark sought to be registered for such goods is likely to cause confusion and dilute marks of Opposer consisting of the word OMEGA or the Greek letter equivalent symbol, Ω, and marks consisting of a

combination of the word OMEGA with the Greek letter equivalent, Ω, marks most commonly used by Opposer for expensive high end watches and time-keeping devices.

3. The opposed mark is used for affinity merchandise bearing the Alpha Phi Omega Fraternity's insignia, the sale of which is targeted primarily to members of the fraternity.

4. Considering the differences in the marks, the differences in the parties' respective product lines, and differences in the respective channels of trade, Applicant denies there is either any likelihood of confusion with, or any dilution of the Opposer's marks.

5. Nevertheless, if the Board believes that it is necessary for Applicant to expressly clarify its channel of trade with the addition of a limitation to the recitation of its goods in order to avoid a likelihood of confusion, Applicant is willing to do so.

6. Accordingly, Applicant conditionally offers to amend its recitation of goods by adding an express channels of trade limitation to clarify the goods are "promoted in the collegiate, fraternity, and sorority affinity merchandise channels of trade."

7. If the Board deems it necessary, as so amended the recitation of goods would then read:

Headwear; Jackets; Shirts; and Sweat shirts promoted in the collegiate, fraternity, and sorority affinity merchandise channels of trade.

[Underscoring added to show proposed narrowing language].

8. Applicant is not using the mark for "Headwear; Jackets; Shirts; and Sweat shirts" outside of this channel of trade.

9. Applicant has proposed this restriction to Opposer, and Opposer has not consented to same.

10. Should the Board find there is an appreciable likelihood of confusion absent this express channels of trade restriction, and further find that Applicant is at least entitled to a

registration with such a restriction, Applicant is amenable pursuant to TBMP § 514.03 to the foregoing restriction to the recitation of goods.

WHEREFORE, Applicant respectfully requests that this Conditional Motion to Amend Recitation of Goods be considered in the Board's determination of this proceeding, and accepted if necessary.

/jackawheat/

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Counsel for Alpha Phi Omega

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this correspondence entitled **CONDITIONAL MOTION TO AMEND RECITATION OF GOODS PURSUANT TO TBMP § 514.03** in Opposition No. 91197505, *Omega S.A. v. Alpha Phi Omega*, is being filed electronically with the U.S. Patent and Trademark Office using the ESTTA service, and deposited this 20th day of June, 2016, with the United States Postal Service with sufficient postage as first class mail in an envelope addressed as follows:

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