

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

Baxley

Mailed: June 20, 2011

Opposition No. **91198021**

Arminex International, Inc.

v.

American International
Industries

By the Trademark Trial and Appeal Board:

On March 4, 2011, applicant filed a motion to amend the identification of applicant in involved application Serial No. 85080615. In particular, applicant seeks to amend its entity designation from "a California corporation" to "a General Partnership made up of Glamour Industries Co., a California corporation; ARYZ Corp., a California corporation; ERX Corp., a California corporation; and RAZY Properties, Inc., a California corporation." Applicant claims that its identification as a corporation was a clerical error; that no such corporation existed on the July 8, 2010 application filing date; and that no such corporation exists today.

However, in a March 30, 2011 order, the Board, noting that a search of the online records of the Secretary of

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State of the State of California, wherein applicant is organized, revealed that there is a California corporation named "American International Industries, Inc." based in Camarillo, California, required applicant to explain how it is not seeking to substitute another entity as the party defendant herein.

In response, applicant contends that no California corporation named "American International Industries" has existed between the filing date of the involved application and the present; that the corporation "American International Industries, Inc." is unrelated to applicant; that a statement of partnership authority for American International Industries was recorded with the State of California Secretary of State; and that applicant is merely seeking to correct a clerical error in its identification. Applicant's response is supported by declaration of its attorney Kevin R. Keegan, the attorney's paralegal Maxwell Harwitt, and the president of applicant's managing partner Zvi Ryzman. The Ryzman declaration introduces a copy of a statement of partnership authority that applicant filed on March 6, 2008 with the Secretary of State of the State of California. Opposer did not file a submission in opposition to applicant's response.

In view of the statement of partnership authority that applicant filed with the Secretary of State of the State of

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California prior to the July 8, 2010 filing date of the involved application, the Board is satisfied that applicant is merely correcting a clerical error and is not seeking to substitute another entity as the party defendant herein.

See Trademark Rule 2.71(d); *U.S. Pioneer Electronics Corp. v. Evans Marketing, Inc.*, 183 USPQ 613 (Comm'r Pats. 1974); TMEP Sections 803.06 and 1201.02(c)(7) (7th ed. 2010).

Accordingly, the motion to amend the identification of applicant in the involved application is granted.

Applicant's entity designation is now set forth as follows:

"a General Partnership made up of Glamour Industries Co., a California corporation; ARYZ Corp., a California corporation; ERX Corp., a California corporation; and RAZY Properties, Inc., a California corporation."

On March 8, 2011, applicant filed an answer to the opposition and a counterclaim to cancel opposer's pleaded registration(s), along with the proper fee. Accordingly, dates herein are reset as follows.

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| Answer to counterclaim due: | July 16, 2011 |
| Deadline for discovery conference: | August 15, 2011 |
| Discovery opens: | August 15, 2011 |
| Initial disclosures due: | September 14, 2011 |
| Expert disclosures due: | January 12, 2012 |
| Discovery closes: | February 11, 2012 |
| Opposer's pretrial disclosures due: | March 27, 2012 |
| Opposer's 30-day testimony period as plaintiff in the opposition to close: | May 11, 2012 |
| Applicant's pretrial disclosures due: | May 26, 2012 |

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Applicant's 30-day testimony period as defendant in the opposition and as plaintiff in the counterclaim to close: July 10, 2012

Opposer's pretrial disclosures for rebuttal in the opposition and as defendant in the counterclaim due: July 25, 2012

Opposer's 30-day testimony period as defendant in the counterclaim and for rebuttal as plaintiff in the opposition to close: September 8, 2012

Applicant's rebuttal disclosures as plaintiff in the counterclaim due: September 23, 2012

Applicant's 15-day rebutal testimony period as plaintiff in the counterclaim to close: October 23, 2012

Brief for opposer as plaintiff in the opposition due: December 22, 2012

Brief for applicant as defendant in the opposition and as plaintiff in the counterclaim due: January 21, 2013

Brief for opposer as defendant in the counterclaim and reply brief, if any, as plaintiff in the opposition due: February 20, 2013

Reply brief, if any, for applicant as plaintiff in the counterclaim due: March 7, 2013

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.