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Filing date: **01/10/2012**

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

Proceeding	91201125
Party	Defendant Fortrend Group LLC
Correspondence Address	JASON A KOTZKER THE KOTZKER LAW GROUP 10268 ROYAL EAGLE ST HIGHLANDS RANCH, CO 80129-6969 UNITED STATES kotzkeriplaw@gmail.com
Submission	Other Motions/Papers
Filer's Name	Jason A. Kotzker
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Signature	/jak/
Date	01/10/2012
Attachments	Motion for Leave to Supplement Post Publication Amendment Revised.pdf ( 3 pages )(275125 bytes ) Exhibits A and B to Motion for Leave to file Amendment w Dec.pdf ( 5 pages )(2597348 bytes )

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

**In the Matter of Application Serial No. 85/160,126: PRIVÉ**

9228-4330 Quebec, Inc.	)	
	)	
Opposer,	)	
	)	Opposition No. 91201125
vs.	)	
	)	
Fortrend Group LLC,	)	
	)	
Applicant.	)	

**Applicant’s Motion for Leave to Supplement Post Publication  
Amendment to Applicant’s Dates of Use**

Respondent/Applicant, Fortrend Group LLC. through and by its attorney files this Motion for Leave to Supplement an earlier filed amendment as follows:

1. Applicant filed Trademark Application Serial No. 85/160,126, hereinafter “the application” for the mark PRIVÉ on October 25, 2010.
2. On April 12, 2011, the application was published for opposition.
3. On July 28, 2011, Applicant filed a Post Publication Amendment to the application.

Since the Amendment was filed between publication and the commencement of opposition proceedings, such amendments are reviewed by the paralegal specialists in the Office of the Deputy Commissioner for Trademark Examination Policy and as such the instant proceedings were suspending pending the disposition of this filing.

4. On August 24, 2011, the Board issued an Order advising of the acceptance of the amendment and the resumption of proceedings.

5. The amendment filed by Applicant on July 28, 2011, in accordance with TMEP 15050.1(a) and (b), requested an amendment of Applicant's dates of first use and dates of first use in commerce. Such amendment is attached hereto as Exhibit "A".

6. Although this amendment was accepted by the Office of the Deputy Commissioner for Trademark Examination, Applicant inadvertently did not include a proper declaration as required by 37 C.F.R. §2.76(e) and TMEP §1104.08. As such, Applicant wishes to correct such deficiency by submitting a properly executed declaration pursuant to 37 C.F.R. §2.76(g). Please refer to Exhibit "B" which includes the amendment and the declaration for review and approval.

Wherefore, in view of the attached supplemental filing, Applicant respectfully requests that instant amendment be reviewed again and accepted accordingly.

Respectfully submitted,

Date: January 10, 2012

By: /s/ Jason A. Kotzker  
Jason A. Kotzker  
KOTZKER LAW GROUP  
Attorney for Respondent  
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Highlands Ranch, CO 80163-2134  
[Jason@KLGIP.com](mailto:Jason@KLGIP.com)

**Certificate of Service**

I hereby certify that on this 10<sup>th</sup> day of January, 2012, a true and correct copy of the foregoing Motion was placed in the U.S. Mail, first class postage prepaid, addressed to:

Jennifer D. Silverman, Esq.  
Ellenoff Grossman & Schole LLP  
150 E. 42<sup>nd</sup> Street, 11<sup>th</sup> Floor  
New York, NY 10017

By: /s/ Jason A. Kotzker  
Jason A. Kotzker  
KOTZKER LAW GROUP  
Attorney for Respondent  
PO Box 632134  
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# **EXHIBIT A**



THE KOTZKER LAW GROUP

TRADEMARK · COPYRIGHT · INTERNET LAW

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Paralegal Specialist  
U.S. Patent and Trademark Office  
Office of the Deputy Commissioner for Trademark Examination Policy

Re.: U.S. Trademark Application Serial No. 85,160,126 for the mark "PRIVÉ"

Dear Paralegal Specialist:

Pursuant to TMEP 1505.01(a) and (b), please accept this proper request for a post publication amendment to the mark PRIVÉ found in U.S. Application Serial No. 85,160,126. The Applicant, Fortrend Group, LLC, seeks to amend the first use dates associated with the services described in this application. Namely, the Applicant wishes to amend the application to include the following first use and first use in commerce dates:

**IC 035. Retail consignment stores featuring clothing, shoes, handbags, jewelry, home goods, bedding and linens, glassware, silverware, and action sports apparel; consignment services, namely, promoting and marketing the goods of others;**

**FIRST USE: September 30, 2008, FIRST USE IN COMMERCE: September 30, 2008**

**IC 035. Online retail consignment stores featuring a variety of consumer goods**

**FIRST USE: March 25, 2010. FIRST USE IN COMMERCE: March 25, 2010**

It is understood that this amendment will require republication of the mark, and such action is respectfully requested. Thank you for your attention to this matter. If you have any questions, please contact the undersigned.

Regards,

Jason Kotzker  
THE KOTZKER LAW GROUP

# **EXHIBIT B**



THE KOTZKER LAW GROUP

TRADEMARK · COPYRIGHT · INTERNET LAW

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Paralegal Specialist  
U.S. Patent and Trademark Office  
Office of the Deputy Commissioner for Trademark Examination Policy

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**IC 035. Online retail consignment stores featuring a variety of consumer goods**

**FIRST USE: March 25, 2010. FIRST USE IN COMMERCE: March 25, 2010**

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Regards,

Jason Kotzker  
THE KOTZKER LAW GROUP

### Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34(a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature:  Date: 01/06/2012

Signatory's Name: JAY M. SABA

Signatory's Position: Executive

Signatory's Phone Number: (212) 380-3000