

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

Mailed: April 30, 2012

Opposition No. **91201166**

Chang Oh Kim

v.

Paul Shim

Cheryl S. Goodman, Interlocutory Attorney:

On March 14, 2011 and May 15, 2011¹, applicant filed an unconsented motion to amend its first date of use of the involved application from December 1, 2010 to May 1, 2010. The motion is accompanied by declarations and invoices.

Opposer, on April 11, 2012, filed a paper opposing the motion. Opposer argues that the motion is without consent, and should be deferred to final hearing as allowing the amendment "would materially change and alter the nature of the claims imposing substantial prejudice to the Opposer" if granted. Opposer also argues that the proposed amendment is deficient and does not comply with all applicable rules and statutory provisions. Opposer argues the motion should be denied, or alternatively deferred until final hearing.

An unconsented motion to amend in substance is generally deferred until final decision or until the case is

¹ The filings appear identical.

decided upon summary judgment. TBMP Section 514.01 (3d ed. 2011). Inasmuch as the motion is one of substance, consideration thereof is deferred until the case is decided upon summary judgment or final decision. *Threshold.TV Inc. v. Metronome Enterprises Inc.*, 96 USPQ2d 1031, 1036 (TTAB 2010) (considering earlier filed motion to amend first use dates on final decision for which consideration of had been deferred).

Dates in this proceeding remain as set.