

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

Mailed: August 13, 2012

Opposition No. 91202403

Lance Armstrong Foundation

v.

Anthony Petrone and David
Schoelles

**George C. Pologeorgis,
Interlocutory Attorney:**

On August 3, 2012, applicants filed a proposed amendment to their application Serial No. 85248707, with opposer's consent.¹

By the proposed amendment applicants seek to amend the drawing of their mark from LEAFSTRONG in standard characters to LEAF STRONG in standard characters.

An amendment to the drawing of a mark may not be made if it materially alters the character of the mark. See Trademark Rule 2.72(a)(2). The general test of whether an alteration of the mark is material is whether the mark would have to be republished after the alteration in order to fairly present the mark for purposes of opposition. See *Visa International*

¹On August 7, 2012, applicants filed a new drawing of their proposed amendment of their mark.

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Service Association v. Life-Code Systems, Inc., 220 USPQ 740
(TTAB 1983).

As a general rule, the addition of any element, which would require a further search, would constitute a material alteration. See *In re Pierce Foods Corp.*, 230 USPQ 307 (TTAB 1986).

In this instance, the Board finds that applicants' proposed amendment does not constitute a material alteration of their mark, and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).