

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

vw

Mailed: September 5, 2012

Opposition No. 91202644

MasterCard International

Incorporated

v.

Milux Holding S.A.

Elizabeth A. Dunn, Attorney (571-272-4267):

On August 23, 2012, applicant filed a proposed amendment to its application Serial No. 85040338, with opposer's consent.

By the proposed amendment, applicant seeks to change the identification in Classes 9, 10 and 44 by adding the following limiting wording to the end of each current identification:

"none of the foregoing being in relation to credit cards, debit cards, payment cards, automatic teller machines (ATMs), point of sale payment terminals, financial, banking and credit services, ATM services, electronic funds and currency transfer services, payment services, and computer hardware and software for carrying out the aforementioned services." As amended, Class 9 will read:

Apparatus, devices and instruments, all not used in direct association with active implants, for measuring, receiving, sending, checking, controlling, driving, transferring, transmitting, processing, analyzing, conducting, switching, transforming, accumulating, and regulating electricity, energy and/or data, including physical parameters, namely, electronic storage devices in the nature of blank memory discs, memory cards and data storage media, namely, packaged semiconductors, electronic control unit and programmer which controls the working parameters of wireless communication systems and wireless powering systems, chargers in the nature of battery chargers, digital chargers and electronic chargers, electronic transmitters and electronic receivers of electronic signals, and electronic circuits; remote controls for wireless controlling, and programming wireless charger apparatus for wireless energizing and control stations for wireless controlling, programming and energizing of active implants; software, in particular for active medical implants, for measuring, receiving, sending, checking, transferring, calculating, processing, controlling, presenting and analyzing of data, namely, data about electricity, energy, physical parameters, and communication and programming data in medical implants; software, in particular for measuring, receiving, sending, checking, transferring, calculating, processing, controlling, presenting and analyzing of data, namely, data about electricity, energy, physical parameters, communication and programming data in apparatus, devices and instruments for communicating with, energizing and programming of medical implants; and data processing equipment and computers; **none of the foregoing being in relation to credit cards, debit cards, payment cards, automatic teller machines (ATMs), point of sale payment terminals, financial, banking and credit services, ATM services, electronic funds and currency transfer services, payment services, and computer hardware and software for carrying out the aforementioned services.**

and Class 10 will read:

Medical and surgical apparatus, instruments and devices, including active and non-active medical implants, namely, medical implants comprised of artificial material; medical and surgical apparatus, instruments and devices intended for use inside the mammal or human body, in particular manual, electrical or a combination of manual and electrical apparatus, devices and instruments, in all

goods including medical hydraulic, mechanical, and pneumatic apparatus, devices and instruments, namely, medical implants comprised of artificial material; medical and surgical apparatus, instruments and devices for replacing and adding one or more bodily functions and parts inside the body, namely, medical implants comprised of artificial material; medical and surgical apparatus, instruments and devices designed for wireless programming, wireless controlling, wireless communicating and wireless energizing, namely, active implants in the nature of implants consisting of artificial materials, and a wireless transmitter and a receiver as an integral component of a surgical implant; wireless communication systems, apparatus, devices, and instruments and wireless energizing systems, apparatus, devices, and instruments for measuring, receiving, sending, switching, transforming, accumulating, regulating, storing, checking, controlling, driving, transferring, transmitting, processing and analyzing, in all the applicable aforementioned goods, of data including physical parameters, electricity, energy and data, namely, electronic transmitters for communicating with, and energizing of, and used in direct association with, active medical implants consisting of artificial materials; surgical instruments in particular to be used during operations of active or non-active medical implants; veterinary medical and surgical apparatus, instruments and devices, for use in implant surgeries; medical and surgical apparatus, instruments and devices for orthopaedic joint implants; and medical implants for collecting, receiving, sending, storing, preparing, controlling, analyzing and processing of data and energy to and from said medical implants; all above goods excluding dental goods; **none of the foregoing being in relation to credit cards, debit cards, payment cards, automatic teller machines (ATMs), point of sale payment terminals, financial, banking and credit services, ATM services, electronic funds and currency transfer services, payment services, and computer hardware and software for carrying out the aforementioned services.**

and Class 44 will read:

Medical services in relation to medical implants for collecting, sending, receiving, storing, preparing, controlling, presenting, calculating, analyzing and processing of data to and from patients and to and from medical implants and to and from remote controls, wireless charger apparatus and control stations for

active implants; surgical and health services, namely, implantation of artificial implants to allow the implants to collect, send, receive, store, prepare, control, present, calculate, analyze, and process of data to and from patients and to and from medical implants and to and from medical implants and to and from remote controls, wireless charger apparatus and control stations for active implants; providing a medical, surgical and health database featuring medical, surgical and health information relating to medical implants that has been input, collected, received, prepared, controlled, programmed, calculated, and analyzed, from medical implants, remote controls or control stations for use by medical, surgical and health professionals for the purposes of monitoring and diagnosing medical conditions; medical and surgical services, namely, implantation of artificial implants in relation to medical implants for programming, controlling, communicating with, and energizing of, active implants; and medical and surgical services, namely, artificial implantation services for persons having a medical related condition and being candidates for or being operated on with an active or a non-active implant; all above services excluding dental services; **none of the foregoing being in relation to credit cards, debit cards, payment cards, automatic teller machines (ATMs), point of sale payment terminals, financial, banking and credit services, ATM services, electronic funds and currency transfer services, payment services, and computer hardware and software for carrying out the aforementioned services.**

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), 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).

Proceedings herein are otherwise suspended.