

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

WINTER

Mailed: October 4, 2013

Opposition No. 91209519

OCV Intellectual Capital, LLC

v.

Made in Mars, Inc.

Final Judgment Vacated

On June 7, 2013, the Board entered default judgment against applicant and sustained the opposition because no answer had been filed.

On June 28, 2013, applicant filed a motion for relief from final judgment under Fed. R. Civ. P. 60(b), and on July 7, 2013, opposer responded thereto, stating that the parties had reached a settlement agreement and setting forth its agreement that the afore-mentioned judgment be vacated. In view thereof, the Board's order dated June 7, 2013, entering judgment against applicant and sustaining the opposition is hereby **VACATED**. See Trademark Rule 2.127(a).

Amendment Accepted and Entered; Opposition Dismissed

Additionally, opposer's response was accompanied by the parties' stipulation comprising applicant's proposed amendment to its application Serial No. 85608422, and opposer's

withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment, applicant seeks to change the identification of goods to delete the wording "toy vehicles; toy vehicles and accessories therefor," and has modified "stuffed and plush toys" to indicate that these items exclude "stuffed toy vehicles," as follows:<sup>1</sup>

**From:** "Bags especially designed for surfboards; Bags for skateboards; Ball bearings for skateboards; Body boards; Flying discs; Harnesses specially adapted for carrying skis and skateboards; Kits for building surfboards; Leashes for surfboards; Nuts and bolts for skateboards; Paddle surfboards; Paddles for use with surfboards; Plush dolls; Protective padding for skateboarding; Skateboard decks; Skateboard grip tapes; Skateboard rails; Skateboard riser pads; Skateboard trucks; Skateboard wax; Skateboard wheels; Skateboards; Skim boards; Snow sleds for recreational use; Stuffed and plush toys; Stuffed toy animals; Stuffed toys; Surfboard carrier worn on the body; Surfboard fins; Surfboard holder worn on the body; Surfboard leashes; Surfboard repair patches; Surfboard storage rack; Surfboard traction pads; Surfboard wax; Surfboards; Toy action figures; Toy action figures and accessories therefor; ~~Toy vehicles; Toy vehicles and accessories therefor;~~ Traction pads for surfboards; Water pistols; Water squirting toys; Waxing brushes for skiing,"

**To:** " Bags especially designed for surfboards; Bags for skateboards; Ball bearings for skateboards; Body boards; Flying discs; Harnesses specially adapted for carrying skis and skateboards; Kits for building surfboards; Leashes for surfboards; Nuts and bolts for skateboards; Paddle surfboards; Paddles for use with surfboards; Plush dolls; Protective padding for skateboarding; Skateboard decks; Skateboard grip tapes; Skateboard rails; Skateboard riser pads; Skateboard trucks; Skateboard wax; Skateboard wheels; Skateboards; Skim boards; Snow sleds for recreational use; Stuffed and plush toys, **excluding stuffed toy vehicles**; Stuffed

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<sup>1</sup> The proposed wording is underlined and shown in bold type font. Deleted wording is lined-through.

toy animals; Stuffed toys; Surfboard carrier worn on the body; Surfboard fins; Surfboard holder worn on the body; Surfboard leashes; Surfboard repair patches; Surfboard storage rack; Surfboard traction pads; Surfboard wax; Surfboards; Toy action figures; Toy action figures and accessories therefor; Traction pads for surfboards; Water pistols; Water squirting toys; Waxing brushes for skiing."

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).

The contingency in opposer's withdrawal having now been met, the opposition is dismissed without prejudice.<sup>2</sup>

***By the Trademark Trial  
and Appeal Board***

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<sup>2</sup> In view thereof, the subject application shall be reinstated and move forward to registration.