

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

am/wbc

Mailed: March 4, 2014

Opposition No. 91213449

DIVX, LLC

v.

Delta Electronics, Inc.

Wendy Boldt Cohen, Interlocutory Attorney:

On February 26, 2014, applicant filed a proposed amendment to its application Serial No. 85675533, without opposer's consent.

By the proposed amendment, applicant seeks to change the identification of goods **from**

"Video graphics display control and management systems comprising Video decoders, Audio decoders, Video and audio processors, Video and audio signal transceivers, Electronic switchers for video and audio signals, Network hubs and switchers, Electronic interconnecters for video and audio signals, Power conversion devices, Flat panel display screens, Multimedia projectors, Matrix distribution controller for video and audio signals, and the Management computer software thereof"

to¹

"Video graphics display control and management systems comprising Video decoders, Audio decoders, Video and audio processors, Video and audio signal transceivers, Electronic switchers for video and audio signals, Network hubs and switchers, Electronic interconnecters for video

¹The proposed additional wording is underlined and shown in bold type font.

and audio signals, Power conversion devices, Flat panel display screens, Multimedia projectors, Matrix distribution controller for video and audio signals, and the Management computer software thereof, all of the foregoing for industrial or professional use and not for consumer use, where the software is adapted exclusively to the foregoing system without separate distribution."

Where an unconsented motion to amend an application that is involved in an *inter partes* proceeding is filed before trial, the Board generally will defer determination until final decision. See TBMP § 514.03. On the other hand, if a proposed amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and is consented to by opposer, it will typically be approved and entered. See Trademark Rule 2.133(a).

Inasmuch as applicant's proposed amendment is otherwise in compliance with Trademark Rule 2.71(b) and applicant indicates the amendment is requested pursuant to the parties' settlement agreement, proceedings herein are suspended to allow applicant until THIRTY DAYS from the date of this order to notify the Board in writing, if accurate, that opposer consents to the proposed amendment.

If applicant does not respond within the time allotted, or if applicant, or opposer, notifies the Board in writing that opposer does not consent to the proposed amendment, proceedings will be resumed, and the opposition will go forward on the application as presently worded.