

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

RA

Mailed: March 26, 2015

Opposition No. 91214244

*St. Louis Cardinals, LLC<sup>1</sup>*

*v.*

*The College of Adaptive Arts*

**Benjamin U. Okeke, Interlocutory Attorney:**

On January 28, 2015, Applicant filed a proposed amendment to application Serial No. 85787443, with Opposer's consent, and Opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment Applicant seeks to amend the description of services to add the following underlined language:

Charitable services, namely, mentoring of students with differing disabilities in the field of fine arts, entertainment and communication; Charitable services, namely, operation of a school for students with differing disabilities in the field of fine arts, entertainment and communication; Charitable services, namely, providing classes, seminars, and workshops in the field of fine arts, entertainment, and communication for students with differing abilities; Providing camps for children and adults with intellectual and developmental disabilities; Workshops and seminars in the field of opportunities, enrichment, and coursework for students with differing

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<sup>1</sup> The Board notes Opposer's motion to suspend the proceeding, filed February 2, 2015, via ESTTA our electronic filing system, which is now deemed moot.

disabilities; all the foregoing not relating to sports or a sports team, league, mascot or stadium.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because Opposer consents, this amendment is **APPROVED** and **ENTERED**. See Trademark Rule 2.133(a).

Additionally, Applicant proposes an amendment to its mark “to include the term CAA in front of the term CARDINALS.” In support of its proposed amendment to the mark, Applicant also submitted an amended drawing page. Applicant seeks to amend the current drawing of the mark as indicated below:

from



to



The proposed amendment to the drawing is unacceptable because it would materially alter the character of the mark. Trademark Rule § 2.72(a); TMEP

§ 807.14(a) (2014). *See In re Wine Society of America, Inc.*, 12 USPQ2d 1139 (TTAB 1989); *In re Nationwide Indus. Inc.*, 6 USPQ2d 1883 (TTAB 1988); *In re Pierce Foods Corp.*, 230 USPQ 307 (TTAB 1986). The proposed amended mark does not “create the impression of being essentially the same mark.” *In re Hacot-Colombier*, 105 F.3d 616, 620, 41 USPQ2d 1523, 1526 (Fed. Cir. 1997), quoting *Visa Int’l Serv. Ass’n v. Life-Code Sys., Inc.*, 220 USPQ 740,743-44 (TTAB 1983). The addition of the term CAA would require republication of the mark to properly place the general public on notice of the mark actually being claimed by Applicant. *See Id.* at 1526 (“If one mark is sufficiently different from another mark as to require republication, it would be tantamount to a new mark appropriate for a new application.”)

In view of these findings, the motion to amend is **DENIED in part, without prejudice**, with respect to the request to amend the mark. The present drawing of the mark, that is, the drawing prior to the filing of the motion to amend, remains operative for purposes of future amendment. *See* Trademark Rule 2.72(a);<sup>2</sup> TMEP §§ 807.13(a) and 807.14.

However, inasmuch as the filing of the proposed amendment indicates to the Board that the parties are making efforts to settle this matter, proceedings are further **SUSPENDED**, and the parties are allowed until **THIRTY DAYS** from the mailing date of this order to file a revised motion to amend, failing which the Board will resume proceedings and reset dates, and the opposition will go forward on the present application.

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<sup>2</sup> Applicant should also note that its proposed amended drawing does not match the drawing of the mark depicted on its specimen of use filed in its application, and is therefore unacceptable for that reason also. *See* Trademark Rule 2.72(a)(1); TMEP § 904.07(a).