

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

EJW/jmw

Mailed: April 7, 2016

Opposition No. 91215272

Becton, Dickinson and Company

v.

Theranos, Inc.

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

In response to the Board's January 20, 2016 order, on February 22, 2016, Applicant informed the Board that the civil action which occasioned the suspension of the proceeding has now been dismissed by stipulation of the parties. Additionally, in the same submission, Applicant submitted a motion to amend the involved application, which comprises a proposed amendment to its application Serial No. 85606345 with Opposer's written consent.¹

By the proposed amendment, Applicant seeks to amend the identification of goods in International Class 10 as follows:²

¹ Applicant's amendment does not indicate proof of service of a copy of same on counsel for Opposer, as required by Trademark Rule 2.119. However, insofar as the motion to amend was submitted to settle this matter and Opposer's counsel signed the motion, Opposer's counsel is directed to the following URL to view Applicant's submission: <http://ttabvue.uspto.gov/ttabvue/v?pno=91215272&pty=OPP&eno=13>.

² No changes are proposed to the other opposed classes of goods and services.

From: “Medical devices for laboratory analysis of body fluids and tissue; medical devices, namely, point of care and handheld devices for analysis of drugs, proteins and other substances, and wireless transfer of medical data; medical measuring apparatus, namely, equipment for medical monitoring and analysis of body fluids and tissue; medical measuring apparatus, namely, cartridges for use with therapies or equipment for medical monitoring and analysis of substances; apparatus for blood analysis; apparatus for taking blood samples; blood testing apparatus; apparatus for clinical diagnosis; capillary reagent tubes; capillary tubes for blood; capillary tubes for samples; containers especially made for processing blood samples; containers for medical waste; devices for monitoring blood sugar; diagnostic apparatus for the detection of a wide variety of diseases; health monitoring devices, namely, personal medical monitors for monitoring a wide variety of physical conditions and diseases; medical diagnostics apparatus for diagnosing a wide variety of physical conditions and diseases; medical apparatus and instruments for monitoring blood properties; medical devices for obtaining body fluid samples; patient medical monitors for monitoring a wide variety of physical conditions and diseases;”

To: “Medical devices for laboratory analysis of body fluids and tissue; medical devices, namely, point of care and handheld devices for analysis of drugs, proteins and other substances, and wireless transfer of medical data; medical measuring apparatus, namely, equipment for medical monitoring and analysis of body fluids and tissue; medical measuring apparatus, namely, cartridges for use with therapies or equipment for medical monitoring and analysis of substances; apparatus for blood analysis; apparatus for taking blood samples; blood testing apparatus; apparatus for clinical diagnosis; capillary reagent tubes; capillary tubes for blood; capillary tubes for samples; containers especially made for processing blood samples; containers for medical waste; devices for monitoring blood sugar; diagnostic apparatus for the detection of a wide variety of diseases; health monitoring devices, namely, personal medical monitors for monitoring a wide variety of physical conditions and diseases; medical diagnostics apparatus for diagnosing a wide variety of physical conditions and diseases; medical apparatus and instruments for monitoring blood properties; medical devices for obtaining body fluid samples; patient medical monitors for monitoring a wide variety of physical conditions and diseases; **all of the foregoing for use in connection with Trademark Proprietor’s medical, laboratory, and/or diagnostic services.**”³

³ Additional wording is underlined and shown in bold type font.

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

If the foregoing amendment resolves this matter, Opposer is allowed until **THIRTY DAYS** from the mailing date of this order to submit a withdrawal of the opposition, failing which trial dates in this proceeding shall be reset.

This proceeding remains otherwise **SUSPENDED**.

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