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Filing date: **04/22/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|------------------------|---|
| Proceeding | 91219179 |
| Party | Defendant United Yacht Transport LLC dba United Yacht Transport |
| Correspondence Address | BRYAN D HULL BUSH ROSS PA PO BOX 3913 TAMPA, FL 33602 UNITED STATES bhull@bushross.com, avianueva@bushross.com, jprobasco@bushross.com, rsterns@bushross.com, ebishop@bushross.com |
| Submission | Other Motions/Papers |
| Filer's Name | Bryan D. Hull |
| Filer's e-mail | bhull@bushross.com |
| Signature | /Bryan D. Hull/ |
| Date | 04/22/2015 |
| Attachments | Applicant_s_motion_to_amend_application_pdf.PDF(86573 bytes) Verified_statement_of_Haber.PDF(525146 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SPLIETHOFF'S BEVRACHTINGSKANTOOR B.V.,

Opposer,

vs.

**Opposition No. 91219179
Serial No. 86031633**

UNITED YACHT TRANSPORT LLC,

Applicant.

APPLICANT'S MOTION FOR LEAVE TO AMEND APPLICATION

Applicant, United Yacht Transport LLC, moves for leave to amend the filing basis of its application, Serial No. 86031633, from Section 1(a) of the Trademark Act to Section 1(b) and states:

United Yacht Transport LLC is in the business of providing regular yacht transportation services by boat. On August 7, 2013, United Yacht Transport LLC filed an application to register the mark UNITED YACHT TRANSPORT in connection with the "transport of yachts by boat" under Section 1(a) of the Trademark Act. United Yacht Transport LLC has since determined that the application is appropriately presented under Section 1(b). Accordingly, pursuant to 37 C.F.R. § 2.133(a), United Yacht Transport LLC respectfully requests leave to amend the basis of its application from Section 1(a) to Section 1(b).

Given the filing of its original application, United Yacht Transport LLC is presumed to have a continuing valid basis, and therefore, the amended application will retain the original filing date. 37 C.F.R. § 2.35(b)(3); TMEP § 806.03(c). Further, in accordance with 37 C.F.R. § 2.34(a)(2), United Yacht Transport LLC has submitted the verified statement of its president which avers the bona fide intention to use the mark in commerce as of the date of the initial

filing, August 7, 2013, that the bona fide intention has been continuous, and that the mark is currently being used in commerce in connection with the services identified in the application.

The amendment is just and proper and should be allowed under the circumstances. Opposer does not stand to suffer prejudice as this proceeding remains in the discovery phase and the substantive issue—whether Opposer or its predecessors abandoned the mark—is unaffected by the amendment. Indeed, the Board has allowed such amendments even after ruling on summary judgment motions. *See, e.g., Karsten Mfg. Corp. v. Editoy AG*, 79 USPQ2d 1783 (TTAB 2006).

The undersigned has conferred with Opposer’s counsel by email on April 10, 2015 and by telephone on April 13, 2015. Opposer’s counsel stated that she opposes the relief requested in this motion.

WHEREFORE, United Yacht Transport LLC respectfully requests leave to amend the filing basis of its application, Serial No. 86031633, from Section 1(a) of the Trademark Act to Section 1(b).

Respectfully submitted,

BUSH ROSS, P.A.

Dated: April 22, 2015

By: /s/Bryan D. Hull

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer has been served on J. Michael Pennekamp and Sandra I. Tart by mailing said copy on April 22, 2015, via First Class Mail, postage prepaid to: J. Michael Pennekamp and Sandra I. Tart, FOWLER WHITE BURNETT, P.A., Espirito Santo Plaza, Fourteenth Floor, 1395 Brickell Avenue, Miami, Florida 33131, and by email to: jpennekamp@fowler-white.com and start@fowler-white.com.

Signature: /s/ Bryan D. Hull
Date: April 22, 2015

VERIFIED STATEMENT

Mark: UNITED YACHT TRANSPORT
Serial No.: 86031633
Filed: August 7, 2013
Applicant: United Yacht Transport, LLC

Applicant has previously requested registration of the mark identified above for the transport of yachts by boat.

The undersigned states that the Applicant had a bona fide intention to use the UNITED YACHT TRANSPORT mark in commerce in connection with the transport of yachts by boat as of August 7, 2013, the filing date of the above-identified application. The undersigned further states that the Applicant has continuously had a bona fide intention to use, and in fact has been using, the applied-for mark in commerce in connection with the services identified in the application.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that he is properly authorized to execute this verified statement on behalf of the Applicant; that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

United Yacht Transport, LLC

By: Paul Haber
Paul Haber, President

Dated: April 10, 2015