

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

VV

Mailed: February 2, 2016

Opposition No. 91220827

*Masimo Corporation*

*v.*

*Covidien LP*

Jennifer Krisp, Interlocutory Attorney:

On January 15, 2016, Applicant filed the parties' stipulation with Applicant's proposed amendment to its application Serial No. 86273929, pursuant to the parties' settlement agreement.

By the proposed amendment Applicant seeks to amend the 1) identification of goods in International Class 10, and 2) description of the mark and color location statement in the description of the mark.

**Amendment to the identification of goods**

By the proposed amendment Applicant seeks to amend the identification of goods in International Class 10 from "Disposable medical devices and supplies, namely, connectors and lead wires for use with patient monitoring devices," to "Disposable medical devices and supplies, namely, ECG connectors."

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

**Amendments to the description of the mark and color location statement in the description of the mark**

By the proposed amendment Applicant seeks to amend the description of the mark and the color location statement in the description of the mark from

The mark consists of a three-dimensional configuration of medical connectors for lead wires in the color hot pink with a small heart design in the color navy blue at the end of the connector. The shape shown in broken lines is not a part of the mark and the broken lines are intended to show the position of the mark on the goods.

to

The mark consists of the three-dimensional configuration of ECG connectors in the color hot pink (Pantone PMS 806) with a small heart design in the color navy blue (Pantone PMS 281) at the end of the ECG connector. The shape shown in broken lines is not a part of the mark and the broken lines are intended to show the position of the mark on the goods.

The amendments to the description of the mark and the color location statement in the description of the mark are approved and entered.

The Board notes that Applicant sets forth the current color claim statement (“The color(s) Hot pink (Pantone PMS 806) and navy blue (Pantone PMS 281) is/are claimed as a feature of the mark.”) as the first sentence of the proposed amended description of the mark.<sup>1</sup> The color claim statement is and must remain a separate statement, and it is printed separately on a registration certificate. TMEP § 807.07(a) (“Requirements for Color Drawings”). Accordingly, the current color claim statement remains unchanged, and the Board will not amend the description of the mark so as to include the color claim statement.

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<sup>1</sup> 17 TTABVUE 2.

If the amendments resolve this proceeding, Opposer is allowed until thirty days from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c).

If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings are otherwise suspended.