

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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General Contact Number: 571-272-8500

RK/kk

Mailed: November 13, 2015

Opposition No. **91222140**

Veka AG

v.

Weka Plastics Recycling Consulting LLC

Yong Oh (Richard) Kim, Interlocutory Attorney:

On October 1, 2015, Applicant filed a proposed amendment to its **Application Serial Nos. 86431985 and 86431994**, with Opposer's consent. By the proposed amendment, Applicant seeks to amend the recitation of services in International Class 35 as follows (deletions underlined and amendments in bold type):¹

From: Consulting services in the field of providing businesses with consumer information about and advice on selection of industrial recycling processing and handling equipment; in International Class 35.

To: **Recycling** consulting services in **connection with plastic bottles for beverages and in connection with plastic materials for contact with food**; in International Class 35.

A proposed amendment to any application or registration which is the subject of an *inter partes* proceeding must also comply with all other applicable rules and statutory provisions, including Trademark Rules 2.71-2.75. *See* TBMP §§ 514.01

¹ The recitation of services and the amendments relating thereto are identical in both of the involved applications.

and 605.03(b). In particular, while an applicant may amend to clarify or limit the identification, adding to or broadening the scope of the identification is not permitted. *See* Trademark Rule 2.71(a); TMEP §§1402.06 *et seq.*, 1402.07.

The proposed amendment is unacceptable because it proposes services outside the scope of the services in the identification as published. Indeed, the proposed services clearly differ from the services as published as the consulting services now relate to the recycling of plastic bottles and materials for food and beverages rather than the selection of industrial recycling processing and handling equipment. In view thereof, Applicant's motion to amend is hereby **DENIED**.

Inasmuch as the parties appear to be interested in settling the case, proceedings herein are **SUSPENDED** until **DECEMBER 14, 2015**, to allow the parties time to renegotiate any settlement agreement and to submit, if possible, an acceptable amendment to the recitation of services in the involved applications.² Should the parties be unable to reach an agreement by the end of the suspension period, proceedings will be resumed and the opposition will go forward on the applications as published in accordance with the following schedule:

Time to Answer	1/13/2016
Deadline for Discovery Conference	2/12/2016
Discovery Opens	2/12/2016
Initial Disclosures Due	3/13/2016
Expert Disclosures Due	7/11/2016
Discovery Closes	8/10/2016
Plaintiff's Pretrial Disclosures Due	9/24/2016
Plaintiff's 30-day Trial Period Ends	11/8/2016
Defendant's Pretrial Disclosures Due	11/23/2016

² In view thereof, Opposer's stipulated motion (filed October 2, 2015) for an extension of time is moot.

Defendant's 30-day Trial Period Ends	1/7/2017
Plaintiff's Rebuttal Disclosures Due	1/22/2017
Plaintiff's 15-day Rebuttal Period Ends	2/21/2017

IN EACH INSTANCE, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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