

ESTTA Tracking number: **ESTTA749252**

Filing date: **05/31/2016**

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

Proceeding	91222961
Party	Defendant Heckler & Koch GmbH
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Submission	Other Motions/Papers
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Date	05/31/2016
Attachments	University of Southern Cal v HK GmbH Response to Board Order 05312016.pdf(890433 bytes)

in bold:

“Firearms; ammunition and projectiles; explosives; fireworks; air pistol weapons; air gun weapons; stun guns; soft-air-weapons, namely, air rifles, air pistols, **sold either through distributors and retailers authorized by the trademark owner or sold by the trademark owner directly to military and law enforcement agencies.**”

Consent to the foregoing amendment has been obtained from both the opposer in this proceeding and the opposer in Opposition No. 9122260, respectively.

II. AMENDMENT TO THE IDENTIFICATION OF GOODS IN CLASS 28

In Applicant’s previous submission, Applicant sought to amend the Class 28 specification of goods to read: “Toy weapons, namely replicas of Heckler & Koch weapons.” The Board’s objection to the substance of Applicant’s proposed amendment in Class 28 seems to be grounded in TMEP § 1402.09, i.e. that, as the Board puts it, “[a]n applicant should not use its own registered or unregistered mark in an identification of goods or services in its own application.”

However, Applicant notes that the aforementioned section of the TMEP states that an applicant “*should not*” use its house mark in an identification of goods or services, not that it *cannot*. Indeed, the TMEP notes that when a house mark is used in an identification of goods or services, the mark should be used “as an adjective modifying the generic name of the goods and services.” TMEP § 1402.09 (2015). This is exactly what Applicant’s previously proposed amendment does.

Nevertheless, in order to avoid any further objection, Applicant proposes the following amendment to the Class 28 identification of goods (whole amendment in bold, changes from previous amendment underlined):

“Toy weapons, namely replicas of the trademark owner’s weapons.”

Consent to the foregoing amendment has been obtained from both the opposer in this proceeding and the opposer in Opposition No. 9122260, respectively.

III. CONCLUSION

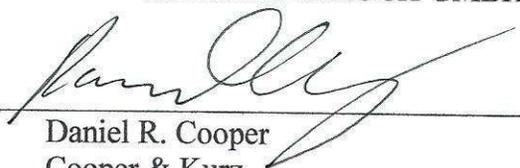
Applicant looks forward to receiving notice of the Board's approval of the foregoing amendments in due course.

Respectfully Submitted,

HECKLER & KOCH GMBH

DATED: May 31, 2016

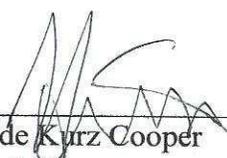
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 2.119, the undersigned hereby certifies that the foregoing
“Response to Board Order and Consent Amendment to Identification of Goods” was
served on Opposer University of Southern California through its attorney, Mr. Michael S.
Adler, Esq. of Tantalo & Adler LLP, via electronic mail (by agreement of the parties) on
this, the 31st of ~~June~~^{May} 2016.



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