

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

JMW/DUNN

Mailed: November 27, 2015

Opposition No. 91223467

salesforce.com, inc.

v.

LumIO Labs, Inc.

By the Trademark Trial and Appeal Board:

On September 22, 2015, Opposer filed the parties' stipulated, proposed amendment to application Serial No. 86232507 and Opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment Applicant seeks to amend the identification of goods in International Class 9 as follows:¹

From (language to be deleted is ~~stricken~~):

~~"Electronic receivers and transmitters for capturing electronic health and fitness data; computer hardware and software for monitoring a person's body, organ, and tissue motion, vital signs, distance covered on foot, calories expended, blood sugar, body fat, sleep patterns and similar health indicators; accelerometers; electronic memories; navigation and GPS hardware in the nature of GPS receivers and software for tracking health and fitness data; computer hardware and software for use in life sciences, health and fitness and biotech applications; computer hardware for use in wireless and cellular applications; computer hardware and software for storing and transmitting health and personal information; computer hardware and software for monitoring and transmitting health and fitness data incorporated into wearable items such as clothing, eyewear, helmets, jewelry and/or accessories; computer software for use in medical, health and fitness applications, namely, for~~

¹ No amendments to the goods in International Class 10 are requested.

~~monitoring a person's body, organ, and tissue motion, vital signs, distance covered on foot, and similar health indicators; computer software for use in wireless and cellular applications for monitoring a person's body, organ, and tissue motion, vital signs, distance covered on foot, and similar health indicators; headsets for use with computers; computer game software; computer game programs; pedometers, computer software for use in wireless and cellular applications, namely, electronic game software; computer software for use in reading movement data from inertial sensors and translating it into usable movement information that initiates certain actions on personal devices, such as cellular phones and mp3 players; MP3 players"~~

To (language to be added is underlined):

"Electronic receivers and transmitters to capture electronic health and fitness data; computer hardware for individuals to monitor a person's body, organ, and tissue motion, vital signs, distance covered on foot, calories expended, blood sugar, body fat, sleep patterns and similar health indicators; accelerometers; electronic memories; navigation and GPS hardware for individuals to track health and fitness data"

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).

The contingency in Opposer's withdrawal having now been met, the opposition is dismissed without prejudice.