

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

RK/mt

Mailed: May 16, 2016

Opposition No. **91225056**

Canvas X Software, Inc.

v.

Instructure, Inc.

Yong Oh (Richard) Kim, Interlocutory Attorney:

On April 14, 2016, Applicant filed a proposed amendment to its Application Serial No. 85632326, without Opposer's consent.¹

By the proposed amendment, Applicant seeks to change the recitation of services in International Class 42 as follows (amendment in bold):

From: Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; in International Class 42.

To: Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network, **all excluding technical graphics or imaging, and technical graphic or imaging software and pertinent support services in the**

¹ Applicant's filing fails to indicate proof of service on Opposer as required by Trademark Rule 2.119. In order to expedite this matter, Opposer is referred to <http://ttabvue.uspto.gov/ttabvue/v?pno=91225056&pty=OPP&eno=7> to view and obtain a copy of the filing. Notwithstanding, strict compliance with Trademark Rule 2.119 is required by Applicant in all future papers filed with the Board.

fields of science, engineering, aviation, petrochemical, and geographical information systems; in International Class 42.

When an unconsented motion to amend an application involved in an *inter partes* proceeding is filed before trial, the Board generally will defer determination until final decision. *See Enbridge Inc. v. Excelerate Energy L.P.*, 92 USPQ2d 1537, 1539 n.3 (TTAB 2009). On the other hand, if a proposed amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and is consented to by the opposing party, it will typically be approved and entered. *See* Trademark Rule 2.133(a).

In view thereof, proceedings herein are **SUSPENDED** and Applicant is allowed until **JUNE 16, 2016**, to file Opposer's consent to the proposed amendment, failing which proceedings herein will resume and determination of the amendment will be deferred until final decision, or until this case is decided upon summary judgment.

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