

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

EJW/am

Mailed: May 16, 2016

Opposition No. 91226847

Clarins Fragrance Group S.A.S.

v.

WNW International LLC

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On April 27, 2016, Applicant filed a proposed amendment to its application Serial No. 86597301 without Opposer's consent.¹

By the proposed amendment, Applicant seeks to amend the identification of goods from:²

Beauty creams for body care; Body and beauty care cosmetics; Cosmetic creams for skin care; Lotions for face and body care; all of the foregoing not including vegetable oils for cosmetic use ~~or~~ essential oils for personal use,

To:

Beauty creams for body care; Body and beauty care cosmetics; Cosmetic creams for skin care; Lotions for face and body care; all of the foregoing not including

¹ To the extent Applicant submits the proposed amendment "in the event that the Board deems such amendments necessary to dismiss the opposition," Applicant is advised that the Board's consideration of any proposed amendment and entry thereof does not constitute a decision or order that the proposed amendment is necessary to the dismissal of the opposition. Amendment of the involved application is *solely* by agreement of the parties, with the Board's approval.

² The additional proposed wording is underlined and shown in bold type font. Lined through wording is to be deleted.

vegetable oils for cosmetic use, essential oils for personal use, **or perfumery products**.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), the amendment may be approved and entered. However, the record does not show Opposer's consent to the proposed amendment. An application that is the subject of an opposition may not be amended in substance, except with the consent of the other party or parties and the approval of the Trademark Trial and Appeal Board, or upon motion granted by the Board. *See* Trademark Rule 2.133(a). Further, the Board generally defers determination of a pre-trial, unconsented motion to amend the involved application in substance until final decision or until the case is decided upon summary judgment. *See, e.g., Enbridge Inc. v. Excelerate Energy Ltd. Partnership*, 92 USPQ2d 1537, 1539 n.3 (TTAB 2009) (motion to amend identification of goods and dates of use deferred until final hearing); *Space Base Inc. v. Stadis Corp.*, 17 USPQ2d 1216 (TTAB 1990) (motion to amend identification of goods deferred). *See* TBMP § 514.03 (2015). In view of the foregoing, entry of the proposed amendment is deferred.

The parties are allowed until **THIRTY DAYS** from the mailing date of this order to submit Opposer's consent to the proposed amendment, failing which consideration of the amendment will be deferred until summary judgment or final hearing.

This proceeding is otherwise **SUSPENDED**.

