

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Mailed: December 12, 2006

Cancellation No. 92045274

Deborah Stoller

v.

Sew Fast/Sew Easy, Inc.

**Thomas W. Wellington,
Interlocutory Attorney:**

On April 3, 2006, petitioner filed a motion for leave to file an amended complaint. By way of this motion, petitioner essentially seeks to insert additional allegations that respondent was not using its mark at the time of filing the underlying application that matured into the subject registration and that the alleged dates of use are inaccurate.

The parties have briefed the motion.

Leave to amend a pleading shall be freely given when justice so requires. See Fed. R. Civ. P. 15(a). Accordingly, the Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties. See TBMP § 507 (2d ed. rev. 2004) and authorities cited therein.

After consideration of both parties' arguments regarding petitioner's motion to amend, we find that respondent's rights will not be prejudiced by the amended complaint. Thus, petitioner's motion is granted and the amended petition to cancel (filed April 3, 2006 with the motion) is the operative complaint in this case.

Respondent is allowed thirty days from the mailing date of this order to file an answer to the petition to cancel, as amended.

Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE: **3/17/07**

Thirty (30) day testimony period for party in position of plaintiff to close: **6/15/07**

Thirty (30) day testimony period for party in position of defendant to close: **8/14/07**

Fifteen (15) day rebuttal testimony period to close: **9/28/07**

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 the 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.