

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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kk/coggins

Mailed: February 17, 2016

Opposition No. 91214623 (combined)
Cancellation No. 92058565

*New York Yankees Partnership and
Sterling Mets, L.P.*

v.

Mighty Healthy, Ltd.

By the Trademark Trial and Appeal Board:

On February 8, 2016, Opposers filed a stipulated motion to amend subject application Serial No. 85750702 and Registration No. 4389716, and to contingently withdraw the combined opposition and cancellation without prejudice.

Application Serial No. 85750702

The parties move to add the wording “all of the foregoing not relating to baseball or softball or a baseball or softball team, league, mascot or stadium” to the identification of goods, so the resulting identification in the application will read as:

Clothing, namely, t-shirts, tank tops, sweatshirts, hooded sweatshirts, socks and caps; all of the foregoing not relating to baseball or softball or a baseball or softball team, league, mascot or stadium.

Inasmuch as this amendment is limiting in nature as required by Trademark Rule 2.71(a), and because Opposers consent thereto, this amendment is approved and entered. *See* Trademark Rule 2.133(a).

Registration No. 4389716

The parties move to add the wording “all of the foregoing not relating to baseball or softball or a baseball or softball team, league, mascot or stadium” to the identification of goods, so the resulting identification in the registration will read as:

Clothing, namely, shirts, sweatshirts, hats and caps; all of the foregoing not relating to baseball or softball or a baseball or softball team, league, mascot or stadium.

The parties also move to amend the mark and have submitted a substitute drawing page showing the amended mark thereon. The amended mark appears to make minimal changes the font of the mark as originally registered, and, therefore, does not appear to materially alter the mark. Although the motion states that a new specimen is attached thereto, no new specimen was submitted with the motion; however, under the specific circumstances of the amendment, where the original specimen shows a substantially exact representation of the amended mark, the failure to provide a new specimen is not fatal.

Inasmuch as the amendments to Registration No. 4389716 comply with the requirements of Trademark Rule 2.173, the amendments are approved. *See* Trademark Rule 2.133(a). The amendments to subject Registration No. 4389716

Opposition No. 91214623(combined), Cancellation No. 92058565

will be forwarded to the Post Registration Branch of this Office for entry of the amendments in accordance with Section 7(e) of the Trademark Act.¹

The contingency in Opposers' withdrawal having now been met, the combined notice of opposition and petition for cancellation is dismissed without prejudice.

¹ A copy of Mighty Healthy, Ltd.'s declaration and the Board's order granting the amendments will be forwarded electronically into the record of the registration.