



04-19-2002

Patent & TMO/TM Mail Rcpt. Dt. #40

*Miscellaneous
potentials*

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Metro Optics of Austin Inc.) TRADEMARKS
Trademark: SURE-WET) Atty. Dkt. No. 7119-TM
Serial No.: 76/152,067) Exmr: Susan K. Lawrence
Filing Date: Oct. 24, 2000) Law Office: 113

AMENDMENT AFTER PUBLICATION - MPEP § 1505

Assistant Commissioner for Trademarks
 Box RESPONSES NO FEE
 2900 Crystal Drive
 Arlington, VA 22202-3513

TRADEMARK TRIAL AND
 APPEAL BOARD
 02 APR 30 PM 9:23

Dear Sirs:

This amendment is proposed under MPEP §§1505 and 1505.01(a). This communication has been timely filed, since it has been forwarded in accordance with the Certificate of Mailing Procedure as set forth in 37 C. F. R. §§1.8, 2.1 and T. M. E. P. §702.03. Please amend the definition of goods associated with the above identified pending mark as follows:

-- Contact lenses not sold through grocery, drug, and/or convenience stores. --

Remarks

This case was Published for Opposition on Sept. 19, 2001. Since then an opposition was avoided by agreement of the parties. Specifically, in settlement of the situation with potential opposer Shurfine Foods, Inc., applicant contractually agreed to seek above definition of goods.

Regarding MPEP § 1501.01(a), amendments after publication that restrict or delete items in the description of goods or services are generally allowable, while amendments that attempt to broaden the scope of goods or services are not allowed. In other words, narrowing amendments are allowable. Here the goods or services as now-defined are being narrowed, as can be seen from the following language: "... not sold through grocery, drug, and/or convenience stores..."

Thus it is respectfully requested that the narrowing amendment be allowed.

In view of the foregoing, it is respectfully urged that the mark is in condition to be registered, and a timely Certificate of Registration is respectfully requested.

In the interest of expediting this application, the Examiner is respectfully invited to telephone Applicant's counsel at the number listed below to discuss any further matters which may require consideration.

Respectfully Submitted,



Stephen D. Carver - Reg. No. 27,314
Suite 800-2024 Arkansas Valley Drive
Little Rock, AR 72212-4147
Telephone: (501) 224-1500; Fax (501) 224-8831
Email: sdc@arkpatent.com

Enclosures: Postal Return Card

CERTIFICATE OF MAILING (37 C.F.R. §§1.8, 2.1 and T.M.E.P. §702.03)

The undersigned attorney hereby certifies that the foregoing AMENDMENT and any and all appurtenant enclosures are being deposited with the United States postal service, first class postage pre-paid, in an envelope addressed to Assistant Commissioner for Trademarks, Box 5, 2900 Crystal Drive, Arlington, VA 22202-3513, on this day of 2002.


Stephen D. Carver Reg. No. 27,314