

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Applicant: SHERWIN "ACE" ROSS)
Serial No.: 76/218,246)
Filed: February 24, 2001) Trademark Operations
Published: August 13, 2002)
Mark: ACE'S UNDIES)

**Fifth Stipulated
Request for Extension of Time to File Opposition**

Date: October 7, 2003

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Sir/Madam:

AMERICAN COUNCIL ON EXERCISE (California Corporation)
4851 Paramount Drive
San Diego, CA 92123

Potential Opposer AMERICAN COUNCIL ON EXERCISE hereby requests a 120-day extension of time to file an Opposition in the above identified matter, up to and including January 9, 2004. The parties have settled this matter and an amendment to the application for registration of the mark has been filed with the TTAB. American Council on Exercise is filing this Fifth Stipulated Request for Extension of Time to File an Opposition because it still has not received confirmation from the TTAB that the amendment has been entered into the record.

A fully executed Letter Agreement between the parties dated November 27, 2002, is attached hereto as Exhibit "A" and incorporated herein by this reference. In furtherance of the

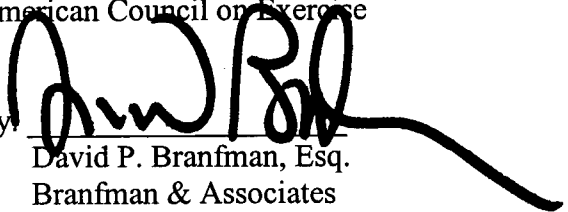
Letter Agreement, Applicant Sherwin Ross has filed with the Patent and Trademark Office the agreed upon Amendments to the marks at issue. In that regard, a copy of Applicant's "Amendment to Description of Goods" and "Applicant's Consented Motion to Amend His Application", each filed with the Patent and Trademark Office on May 16, 2003, are attached hereto as Exhibits "B" and "C" respectively and are incorporated herein by this reference. Lastly, a copy of "Applicant's Second Consented Motion to Amend His Application(s)", which was filed with the Patent and Trademark Office on June 25, 2003, is attached hereto as Exhibit "D" and is incorporated herein by this reference.

Please take any necessary action to enter the amendment and extend/suspend this proceeding. Applicant Sherwin Ross stipulated to the extension requested herein on November 27, 2002.

Respectfully,


American Council on Exercise

By


David P. Branfman, Esq.
Branfman & Associates
12750 High Bluff Drive, Suite 100
San Diego, CA 92130
(858) 481-5800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington VA 22202-3514, on October 7, 2003.


Eric E. Beener

Date

10/7/03

PROOF OF SERVICE

The undersigned certifies that a copy of this Fifth Request for Extension of Time to File an Opposition was served upon the attorney of record for Sherwin "ACE" Ross by depositing a copy of the same with the United States Postal Service as first class mail, postage prepaid, addressed to Alan Cyrilin, Wasserman, Comden, Casselman & Pearson L.L.P., 5567 Reseda Blvd, Suite 330, Tarzana, CA 91357-7033 on October 7, 2003.


Eric E. Beener

Date

10/7/03

DAVID P. BRANFMAN

LAW OFFICES OF
BRANFMAN & ASSOCIATES
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Exhibit "A"

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

November 27, 2002

Alan I. Cyrlin
Wasserman, Comden, Casselman & Pearson L.L.P.
5567 Reseda Blvd, Suite 330
Tarzana, CA 91357-7033

Re: ACE ROSS STUDIOS Opposition No. 91150752

Dear Mr. Cyrlin:

Per our conversation and the three points of your October 25, 2002 email, reproduced below are the three points of settlement which we discussed.

(1) Sherwin Ross ("Ross") shall file amendments to the description of goods for ACE ROSS STUDIOS, U.S. Trademark Serial No. 76/151,890, ACE'S UNDIES, U.S. Trademark Serial No. 76/218,246, AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, U.S. Trademark Serial No. 76/339,612, and ACE'S KIDS, U.S. Trademark Serial No. 76/218,244, to delete health and fitness related apparel and goods, namely, jogging suits, gym shorts, sweat shorts, sweat pants, sweat shirts, halter tops, pullovers, warm-up suits, casual shirts, socks, caps, hats, sneakers, gym bags, duffel bags, all purpose sports bags, athletic bags, and water bottle carriers intended to be used for exercise, health, or fitness, and further agrees not to use the marks for such goods.

(2) Within ten (10) days after confirmation that the above amendments have been entered by the Patent and Trademark Office ("PTO"), the American Council on Exercise ("A.C.E.") shall dismiss its Opposition No. 91150752 to the ACE ROSS STUDIOS mark without prejudice. Until such time as the Amendments are entered, Ross agrees to continue to grant extensions of time for all pending matters. In that regard, Ross hereby agrees to 120 day extensions of time: (a) to the Discovery and Trial Periods in the ACE ROSS STUDIOS Opposition; and (b) for A.C.E. to Oppose ACE'S UNDIES, AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, and ACE'S KIDS. If any Amendment is rejected by the PTO and the rejection is final, the parties shall have the right, but not the obligation, to consider this Agreement void and unenforceable.

Alan Cyrlin
November 27, 2002
Page 2

(3) Ross shall not use the marks listed in paragraph (1) above for *Physical Fitness Training Manuals and Printed Exam Materials Pertaining to Physical Fitness; Namely, Combined Informational Brochures and Applications For Exams and Sample Test Questions*; or (2) *Educational Services, Namely, Providing Training Such As Classes And Seminars In The Field of Physical Fitness*. This paragraph is not meant as an exclusive list of the goods and services which A.C.E. has used, or will use, its various trademarks in relation to. A.C.E. has in fact used its marks in relation to many of the goods and services listed in Ross' U.S. Trademark Applications listed herein, and nothing in this Agreement shall in any way limit A.C.E.'s rights against Ross in the future.

If the above three paragraphs are acceptable, please have your client sign in the place set forth below and return the original copy of this letter to me. Please also feel free to contact me if you have any questions or concerns.

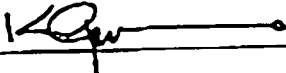
Best Regards,



Joe A. Mandour
Branfman & Associates

AGREED:

American Council on Exercise, Inc.

By:  _____

Ken Germano, Executive Director

Date: 12-4-02

Sherwin Ross

By:  _____

Date: Jan 10, 2003

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Ex B

Law Offices

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May 12, 2003

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*ADMITTED IN MINNESOTA ONLY

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PAMELA J. VOIGH
DANIEL L. WARSHAW
I. DONALD WEISSMAN

**CERTIFIED MAIL,
RETURN RECEIPT REQUESTED**

AMENDMENT TO DESCRIPTION OF GOODS

Commissioner for Trademarks
BOX NO FEE - Amendments
2900 Crystal Drive
Arlington, VA 22202-3514

Re: Trademark / (1) ACE ROSS STUDIOS, Serial No. 76/151,890,
Serial Nos. (4) : (2) ACE'S UNDIES, Serial No. 76/218,246,
(3) AMERICAN CLOTHING ENTERPRISES, INC.'
A.C.E. APPAREL FOR THE FREE, Serial No.
76/339,612, and
(4) ACE'S KIDS, Serial No. 76/218,244.
Our File No. : 2240-11, 2240-27, 2240-33 and 2240-28

Sir/Madam:

Pursuant to TMEP 1505.01(a), the Applicant, SHERWIN ACE ROSS, respectfully amends his description of goods for the following trademarks: (1) ACE ROSS STUDIOS, U.S. Trademark Serial No. 76/151,890, (2) ACE'S UNDIES, U.S. Trademark Serial No. 76/218,246, (3) AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, U.S. Trademark Serial No. 76/339,612, and (4) ACE'S KIDS, U.S. Trademark

Law Offices

WASSERMAN, COMDEN, CASSELMAN & PEARSON L.L.P.

Assistant Commissioner for Trademarks
May 16, 2003
Page 2

76/218,246, (3) AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, U.S. Trademark Serial No. 76/339,612, and (4) ACE'S KIDS, U.S. Trademark Serial No. 76/218,244.

Please amend the aforementioned trademark applications to read as follows. (These amended descriptions are the same as the originals except with health and fitness related goods and apparel deleted).

- (1) ACE ROSS STUDIOS, U.S. Trademark Serial No. 76/151,890: With respect to International Class 025, please amend to read: Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Jackets, Jeans, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Raincoats, Shirts, Dress Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Suits, Sweaters, T-Shirts, Trousers, Underpants, Vests, and Shoes, except for health and fitness related apparel and goods.

An Opposition has been filed with respect to this application. The Opposer, THE AMERICAN COUNCIL ON EXERCISE, has consented to this amendment (See Below). Further, the Applicant has or will shortly file a motion to Amend his Application, a copy of which is attached.

- (2) ACE'S UNDIES, U.S. Trademark Serial No. 76/218,246: With respect to International Class 025, please amend to read: Men's, Women's, and Children's Wearing Apparel, namely, Bathing Suits, Bathrobes, Beach Coverups, Beachwear, Body Suits, Boxer Shorts, Brassieres, Briefs, Bustiers, Camisoles, Chemises, Chemisettes, Corselets, Culottes, Garter Belts, Girdles, Hosiery, Kimonos, Leggings, Leotards, Lounge-wear, Negligees, Nightgowns, Nightshirts, Pajamas, Panties, Pantyhose, Peignoirs, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Slips, Stockings, Sweaters, T-Shirts, Underpants, and Slippers, except for health and fitness related apparel and goods.

Los Office

WASSERMAN, COMDEN, CASSELMAN & PEARSON L.L.P.

Assistant Commissioner for Trademarks

May 16, 2003

Page 3

- (3) AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, U.S. Trademark Serial No. 76/339,612: With respect to International Class 018, please amend to read: INTENT TO USE Wallets, Purses, Key Cases, Cosmetic Cases Sold Empty, Business Card Cases, Credit Card Cases, Clutches, tote Bags, and shoulder bags, diaper bags, women's handbags, briefcase type portfolios, clutches, briefcases, attache cases, satchels, satchels travel kits, carry-on luggage, garment bags, back packs, key cases, purses, identification cases, tie cases, coin pouches, coin cases men's clutches, waist pouches, passport covers, toiletry cases sold empty, and identification tags for luggage, luggage, knapsacks, fanny packs, and book bags, except for health and fitness related apparel and goods.

With respect to International Class 025, please amend to read: Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Jackets, Jeans, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Raincoats, Shirts, Dress Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Suits, Sweaters, T-Shirts, Trousers, Underpants, Vests, Shoes, and veils, except for health and fitness related apparel and goods.

- (4) ACE'S KIDS, U.S. Trademark Serial No. 76/218,244: With respect to International Class 025, please amend to read: Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Bathrobes, Beach Coverups, Belts, Boxer Shorts, Brassieres, Briefs, Camisoles, Chemises, Culottes, Dresses, Jeans, Leggings, Leotards, Mini-Skirts, Nightgowns, Overalls, Pajamas, Panties,

Law Offices


WASSERMAN, COMDEN, CASSELMAN & PEARSON L.L.P.

Assistant Commissioner for Trademarks
May 16, 2003
Page 4

Pants, Playsuits, Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Sweaters, T-Shirts, Underpants, Pedal Pushers, and Shoes, except for health and fitness related apparel and goods.

Very truly yours,

SHERWIN "ACE" ROSS

By: 

Alan I. Cyrilin, Esq.
Attorney for Applicant

WASSERMAN, COMDEN, CASSELMAN
& PEARSON L.L.P.
5567 Reseda Boulevard, Suite 330
Tarzana, California 91356
(818) 705-6800

The American Council on Exercise, Opposer in the matter of Opposition No. 91150752, consents to the above-referenced amendments.

AMERICAN COUNCIL ON EXERCISE

By: 

David P. Branfman, Esq.
Its Attorney

Branfman & Associates
12750 High Bluff Drive, Ste. 100
San Diego, CA 92130
T: 858-481-5800
F: 858-481-3709

Exhibit "C"

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May 21, 2003

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ACYRLIN@WCCPLAW.COM

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

APPLICANT'S CONSENTED MOTION TO AMEND HIS APPLICATION

Commissioner for Trademarks
BOX TTAB, NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Trademark / Serial Nos. (4) : (1) ACE ROSS STUDIOS, Serial No. 76/151,890,
(2) ACE'S UNDIES, Serial No. 76/218,246,
(3) AMERICAN CLOTHING ENTERPRISES, INC.,
A.C.E. APPAREL FOR THE FREE, Serial No.
76/339,612, and
(4) ACE'S KIDS, Serial No. 76/218,244.
Our File No. : 2240-11, 2240-27, 2240-33 and 2240-28

Sir/Madam:

Attached please find Applicant's Consented Motion to Amend His Application.

Very truly yours,

WASSERMAN, COMDEN, CASSELMAN
& PEARSON L.L.P.

Stacey Hanlin
Stacey Hanlin, Assistant to
Alan I. Cyrlin, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 76/151,890
published in the Official Gazette (Trademark) on September 11, 2001
Mark: ACE ROSS STUDIOS

AMERICAN COUNCIL ON EXERCISE,)
)
Opposer,)
)
vs.)
)
SHERWIN "ACE" ROSS,)
)
Applicant.)
_____)

Opposition No. 91150752

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

APPLICANT'S CONSENTED MOTION TO AMEND HIS APPLICATION

Applicant, SHERWIN "ACE" ROSS, pursuant to Trademark Rule 2.133(a) hereby moves to amend his application for the mark ACE ROSS STUDIOS (Serial No. 76/151/890). The amendment limits the description of the class of goods. The opposer has consented to the

amendment. The amendment description is the same as the original except that the description *deletes* health and fitness related goods and apparel.

The following is the *original* description of the goods and services:

“Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Halter Tops, Jackets, Jeans, Jogging Suits, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Pullovers, Raincoats, Shirts, Casual Shirts, Dress Shirts, Undershirts, Shorts, Gym Shorts, Sweat Shorts, Skirts, Slacks, Sleepwear, Socks, Suits, Sweaters, Sweat Pants, Sweat Shirts, T-Shirts, Trousers, Underpants, Vests, Warm-up Suits, Shoes and Hats.”

The proposed amended description is as follows:

“Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Jackets, Jeans, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Raincoats, Shirts, Dress Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Suits, Sweaters, T-Shirts, Trousers, Underpants, Vests, and Shoes, except for health and fitness related apparel and goods.”

Applicant respectfully requests that this motion be granted forthwith.

Dated: May 15, 2003

Respectfully submitted,

WASSERMAN, COMDEN, CASSELMAN & PEARSON L.L.P.

By: 

ALAN I. CYRLIN
5567 Reseda Boulevard, Suite 330
Tarzana, California 91357-7033
Tel.: (818) 609-2367
Fax: (818) 345-0162

Attorney for Applicant

CERTIFICATE OF MAILING

I hereby certify that this APPLICANT'S CONSENTED MOTION TO AMEND HIS APPLICATION is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box TTAB, NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on this 21st day of May 2003.


Stacey Hanlin

PROOF OF SERVICE

The undersigned certifies that a copy of the APPLICANT'S CONSENTED MOTION TO AMEND HIS APPLICATION was served on the attorney of record for opposer, THE AMERICAN COUNCIL ON EXERCISE, by depositing same with the United States Postal Service as first class mail, postage prepaid, addressed to David P. Branfman, Branfman & Associates, 12750 High Bluff Drive, Suite 100, San Diego, California 92130, on this 21st day of May 2003.


Stacey Hanlin

Clurt

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 76/151,890
published in the Official Gazette (Trademark) on September 11, 2001
Mark: ACE ROSS STUDIOS

AMERICAN COUNCIL ON EXERCISE,)
)
 Opposer,)
)
 vs.)
)
 SHERWIN "ACE" ROSS,)
)
 Applicant.)

Opposition No. 91150752

Box TTAB
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Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

**APPLICANT'S SECOND
CONSENTED MOTION TO AMEND HIS APPLICATION(S)**

Applicant, SHERWIN "ACE" ROSS, pursuant to Trademark Rule 2.133(a) hereby moves
to amend his application for the mark following marks:

- (1) ACE ROSS STUDIOS, Serial No. 76/151/890

(2) ACE'S UNDIES, Serial No. 76/218,246,

(3) AMERICAN CLOTHING ENTERPRISES, INC.' A.C.E. APPAREL
FOR THE FREE, Serial No. 76/339,612, and

(4) ACE'S KIDS, Serial No. 76/218,244.

The amendments limit the description of the class of goods. The opposer has consented to the amendments. The amendment description is the same as the original except that the description *deletes* health and fitness related goods and apparel.

Applicant seeks to amend the applications as follows:

(1) Amendment to ACE ROSS STUDIOS (Serial No. 76/151/890)

Please amend the description of goods to the following: "Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Jackets, Jeans, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Raincoats, Shirts, Dress Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Suits, Sweaters, T-Shirts, Trousers, Underpants, Vests, and Shoes, except for health and fitness related apparel and goods."

'The description originally read: ""Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Halter Tops, Jackets, Jeans, Jogging Suits, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Pullovers, Raincoats, Shirts, Casual Shirts, Dress Shirts, Undershirts, Shorts, Gym Shorts, Sweat Shorts, Skirts, Slacks, Sleepwear, Socks, Suits, Sweaters, Sweat Pants, Sweat Shirts, T-Shirts, Trousers, Underpants, Vests, Warm-up Suits, Shoes and Hats.'""

(2) Amendment to ACE'S UNDIEN, U.S. Trademark Serial No. 76/218,246:

Please amend the description of goods to the following: Men's, Women's, and Children's Wearing Apparel, namely, Bathing Suits, Bathrobes, Beach Coverups, Beachwear, Body Suits, Boxer Shorts, Brassieres, Briefs, Bustiers, Camisoles, Chemises, Chemisettes, Corselets, Culottes, Garter Belts, Girdles, Hosiery, Kimonos, Leggings, Leotards, Lounge-wear, Negligees, Nightgowns, Nightshirts, Pajamas, Panties, Pantyhose, Peignoirs, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Slips, Stockings, Sweaters, T-Shirts, Underpants, and Slippers, except for health and fitness related apparel and goods.²

(3) Amendment to AMERICAN CLOTHING ENTERPRISES, INC. A.C.E. APPAREL FOR THE FREE, U.S. Trademark Serial No. 76/339,612:

With respect to International Class 018, please amend to read: INTENT TO USE Wallets, Purses, Key Cases, Cosmetic Cases Sold Empty, Business Card Cases, Credit Card Cases, Clutches, tote Bags, and shoulder bags, diaper bags, women's handbags, briefcase type portfolios, clutches, briefcases, attache cases, satchels, satchels travel kits, carry-on luggage, garment bags, back packs, key cases, purses, identification cases, tie cases, coin pouches, coin cases men's clutches, waist pouches, passport covers, toiletry cases sold empty, and

²The original description read: Men's, Women's, and Children's Wearing Apparel, namely, Bathing Suits, Bathrobes, Beach Coverups, Beachwear, Body Suits, Boxer Shorts, Brassieres, Briefs, Bustiers, Camisoles, Chemises, Chemisettes, Corselets, Culottes, Garter Belts, Girdles, Hosiery, Kimonos, Leggings, Leotards, Lounge-wear, Negligees, Nightgowns, Nightshirts, Pajamas, Panties, Pantyhose, Peignoirs, Undershirts, Shorts, Gym Shorts, Skirts, Slacks, Sleepwear, Slips, Stockings, Sweaters, Sweat Pants, Sweat Shirts, T-Shirts, Underpants, and Slippers

identification tags for luggage, knapsacks, fanny packs, and book bags, except for health and fitness related apparel and goods.³

With respect to International Class 025, please amend to read: Men's, Women's, and Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Jackets, Jeans, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Raincoats, Shirts, Dress Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Suits, Sweaters, T-Shirts, Trousers, Underpants, Vests, Shoes, and veils, except for health and fitness related apparel and goods.⁴

(4) Amendment to ACE'S KIDS, U.S. Trademark Serial No. 76/218,244:

³The original description read: "Wallets, Purses, Key Cases, Cosmetic Cases Sold Empty, Business Card Cases, Credit Card Cases, Clutches, tote Bags, duffel bags and shoulder bags, gym bags, diaper bags, women's handbags, briefcase type portfolios, clutches, briefcases, attache cases, satchels, satchels travel kits, carry-on luggage, garment bags, back packs, key cases, purses, identification cases, tie cases, coin pouches, coin cases men's clutches, waist pouches, water bottle carriers, passport covers, toiletry cases sold empty, and identification tags for luggage, knapsacks, fanny packs, book bags, all purpose sports bags, and athletic bags"

⁴The original description read: "Bandanas, Bathing Suits, Beach Coverups, Belts, Blouses, Body Suits, Boleros, Boxer Shorts, Briefs, Bustiers, Camisoles, Chemises, Coats, Leather Coats, Dresses, Halter Tops, Jackets, Jeans, Jogging Suits, Jumpers, Jumpsuits, Kerchiefs, Leggings, Leotards, Lounge-wear, Mini-Skirts, Overcoats, Pajamas, Panties, Pants, Pantsuits, Pantyhose, Ponchos, Pullovers, Raincoats, Shirts, Casual Shirts, Dress Shirts, Undershirts, Shorts, Gym Shorts, Sweat Shorts, Skirts, Slacks, Sleepwear, Socks, Suits, Sweaters, Sweat Pants, Sweat Shirts, T-Shirts, Trousers, Underpants, Vests, Warm-up Suits, Shoes, Sneakers, and Hats, veils."

Please amend the description of goods to read as follows: Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Bathrobes, Beach Coverups, Belts, Boxer Shorts, Brassieres, Briefs, Camisoles, Chemises, Culottes, Dresses, Jeans, Leggings, Leotards, Mini-Skirts, Nightgowns, Overalls, Pajamas, Panties, Pants, Playsuits, Shirts, Undershirts, Shorts, Skirts, Slacks, Sleepwear, Sweaters, T-Shirts, Underpants, Pedal Pushers, and Shoes, except for health and fitness related apparel and goods.⁵

Dated: June 25, 2003

Respectfully submitted,

WASSERMAN, COMDEN, CASSELMAN & PEARSON L.L.P.

By: 

ALAN I. CYRLIN
5567 Reseda Boulevard, Suite 330
Tarzana, California 91357-7033
Tel.: (818) 609-2367
Fax: (818) 345-0162

Attorney for Applicant

⁵The original description read: "Children's Wearing Apparel, namely, Bandanas, Bathing Suits, Bathrobes, Beach Coverups, Belts, Boxer Shorts, Brassieres, Briefs, Camisoles, Chemises, Culottes, Dresses, Halter Tops, Jeans, Leggings, Leotards, Mini-Skirts, Nightgowns, Overalls, Pajamas, Panties, Pants, Playsuits, Shirts, Undershirts, Shorts, Gym Shorts, Skirts, Slacks, Sleepwear, Socks, Sweaters, Sweat Pants, Sweat Shirts, T-Shirts, Underpants, Pedal Pushers, Shoes, Caps, and Hats."

CERTIFICATE OF MAILING

I hereby certify that this APPLICANT'S SECOND CONSENTED MOTION TO AMEND HIS APPLICATION(S) is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box TTAB, NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on this 25th day of June 2003.


Stacey Hanlin

PROOF OF SERVICE

The undersigned certifies that a copy of the APPLICANT'S SECOND CONSENTED MOTION TO AMEND HIS APPLICATION(S) was served on the attorney of record for opposer, THE AMERICAN COUNCIL ON EXERCISE, by depositing same with the United States Postal Service as first class mail, postage prepaid, addressed to David P. Branfinan, Branfinan & Associates, 12750 High Bluff Drive, Suite 100, San Diego, California 92130, on this 25th day of June 2003.


Stacey Hanlin

T TAB

October 7, 2003

TRADEMARKS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Sir/Madam:


Transmitted herewith for filing is the Fifth Stipulated Request for Extension of Time to File Opposition for the registration of:

Applicant: Sherwin "ACE" Ross
Serial No.: 76/218,246
Mark: ACE'S UNDIES

Enclosed also are:

- Exhibit A: "Letter Agreement"
- Exhibit B: "Amendment to Description of Goods"
- Exhibit C: "Applicant's Consented Motion to Amend His Application"
- Exhibit D: "Applicant's Second Consented Motion to Amend His Application(s)"
- One stamped self-addressed postcard. Please return the postcard to acknowledge receipt of these documents.

Sincerely,



Eric Beener
Paralegal
Branfman & Associates

Enclosures:



10-10-2003