**UNITED STATES DEPARTMENT OF COMMERCE**
**Patent and Trademark Office**
**Trademark Trial and Appeal Board**
2900 Crystal Drive
Arlington, Virginia 22202-3513

King

Mailed: February 20, 2003

Opposition No. 91120186

THE ECHO LABEL

v.

ANDREA ELECTRONICS CORPORATION

**Frances S. Wolfson, Interlocutory Attorney:**

On February 6, 2003, applicant filed a proposed amendment to its application Serial No. 75/781,025, with opposer's consent.

Trademark Rule 2.133(a) provides, in pertinent part, that an application which is the subject of an inter partes proceeding may not be amended in substance except with the consent of the adverse party and the approval of the Board, or upon motion. However, the proposed amendment must also comply with all other rules and statutory provisions.

Trademark Rule 2.71(a), 37 C.F.R. §2.71(a), restricts amendments to the identification of goods or services as follows, "The applicant may amend the application to clarify or limit, but not to broaden, the identification of

goods and/or services." *See* TMEP § 1402.06.[1] Accordingly, an applicant may amend its application to insert an item that is equivalent to or logically encompassed by an item already included in the identification of goods. On the other hand, an applicant may not amend an identification of goods or services to add or substitute a term that is not logically included within the scope of the term(s) originally identified or that is otherwise qualitatively different from the goods and services as originally identified. *See* TMEP § 1402.06(a).

By the proposed amendment, applicant seeks to change the identification of goods from "audio equipment, namely microphones," to "acoustic echo cancellers; microphones incorporating acoustic echo cancellers."

Applicant's proposed amendment to the identification of goods in application Serial No. 75/781,025 is unacceptable. The term "microphones" logically encompasses "microphones incorporating acoustic echo cancellers." However, "acoustic echo cancellers" themselves are not within the scope of the original identification of goods of the application. *See* Trademark Rule 2.71(a).

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[1] The Trademark Manual of Examining Procedure ("TMEP") is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (Telephone (202) 512-1800). The TMEP is also available on the World Wide Web at http://www.uspto.gov.

Applicant’s motion to amend the application is accordingly denied and applicant is allowed **twenty days** from the mailing date of this order in which to submit a substitute proposed amendment in compliance with Trademark Rule 2.71(b), failing which the opposition will go forward on the application as originally filed.

Proceedings remain otherwise suspended.

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