

07/29/2003TTAB

WAS

July 11, 2003

**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



07-14-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #58

Dear Sir/Madam:

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

Applicant: Sherwin "ACE" Ross  
Serial No.: 76/339,612  
Mark: AMERICAN CLOTHING ENTERPRISES A.C.E. APPAREL FOR THE FREE

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:

07/29/2003TTAS

DAVID P. BRANFMAN

LAW OFFICES OF

DBRANFMAN@BRANFMAN.COM

# BRANFMAN & ASSOCIATES

12750 HIGH BLUFF DRIVE, SUITE 100  
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Exhibit "A"

## PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

03 JUL 28 PM 9:31  
TAMARA J. ...

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.

07/23/2003 TAB

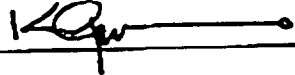
Alan Cyrlin  
November 27, 2002  
Page 2

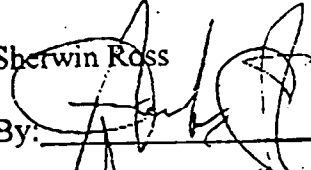
(3) Ross shall not use the marks listed in paragraph (1) above for *Physical Fitness Training Manuals and Printed Exam Materials Pertaining to Physical Fitness; Namely, Combined Informational Brochures and Applications For Exams and Sample Test Questions*; or (2) *Educational Services, Namely, Providing 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

5-12-203 4:10PM

FROM LEONARD COMDEN/GERI 8187058634

05/29/2003

*Law Offices*

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

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\*ADMITTED IN MINNESOTA ONLY

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ANDREW ROSS  
MARTIN S. RUDOFY  
W. DENNIS SNYDERMAN  
MARINA N. VITEK  
PAMELA J. VOICH  
DANIEL L. WARSHAW  
I. DONALD WEISSMAN

May 12, 2003

**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

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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.

*Law 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,

07/29/2003TTAB

*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,

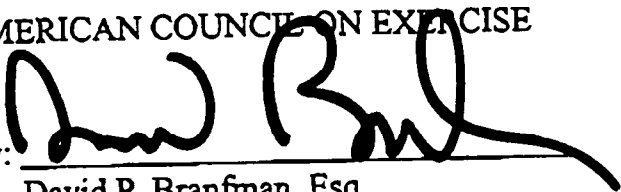
SHERWIN "ACE" ROSS

By:   
Alan I. Cyrlin, 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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MARINA N. VITEK  
PAMELA J. VOICH  
DANIEL L. WARSHAW  
I. DONALD WEISSMAN

May 21, 2003

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 / (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:

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.



07/29/2003TTAB

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

07/29/2003TTAB

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.”

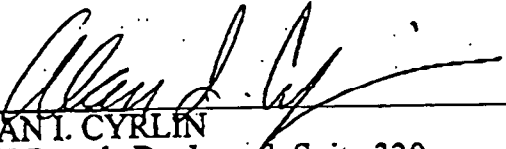
07/29/2003TTAB

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



07/29/2003TTAB

(2) ACE'S UNDIEN, 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."<sup>1</sup>

<sup>1</sup>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.'""

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(2) Amendment to ACE'S UNDIES, 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.<sup>2</sup>

(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

---

<sup>2</sup>The 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

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

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.<sup>4</sup>

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

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<sup>3</sup>The 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"

<sup>4</sup>The 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."

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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.<sup>3</sup>

Dated: June 25, 2003

Respectfully submitted,

WASSERMAN, COMDEN, CASSELMAN &amp; 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

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<sup>3</sup>The 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."



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**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 25<sup>th</sup> 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. Branfman, Branfman & Associates, 12750 High Bluff Drive, Suite 100, San Diego, California 92130, on this 25<sup>th</sup> day of June 2003.

  
Stacey Hanlin

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

Applicant: SHERWIN "ACE" ROSS )  
Serial No.: 76/339,612 )  
Filed: November 20, 2001 ) Trademark Operations  
Published: October 29, 2002 )  
Mark: AMERICAN CLOTHING ENTERPRISES )  
A.C.E. APPAREL FOR THE FREE )

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

Date: July 11, 2003

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

Ms. Craven:

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

Potential Opposer AMERICAN COUNCIL ON EXERCISE hereby requests a 60 day extension of the above-identified proceedings due to the fact that settlement negotiations have been finally determined. The fully executed Letter Agreement dated November 27, 2002, is attached hereto as Exhibit "A" and incorporated herein by this reference.

In furtherance of the Agreement, Applicant Sherwin Ross has filed with the Patent and Trademark

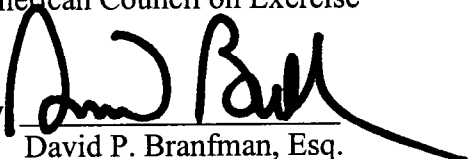
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Office the agreed upon Amendments to the marks at issue. In that regard, a copy of Applicant's "Amendment to Description of Goods" and "Applicant's Consented Motion to Amend His Application", each filed with the Patent and Trademark Office on May 16, 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 Amendments and extend/suspend these proceedings pending approval thereof by the Board. Alan Cyrlin, Esq., counsel for Applicant, has stipulated to the extension requested herein.

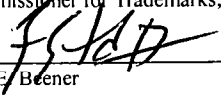
Respectfully,

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**

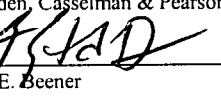
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington VA 22202-3514, on July 11, 2003.

  
Eric E. Beener

Date July 11, 2003

**PROOF OF SERVICE**

The undersigned certifies that a copy of this Fourth 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 Cyrlin, Wasserman, Comden, Casselman & Pearson L.L.P., 5567 Reseda Blvd, Suite 330, Tarzana, CA 91357, 7033 on July 11, 2003.

  
Eric E. Beener

Date July 11, 2003