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

Proceeding	91170091
Party	Defendant TSA Corporate Services, Inc.
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Submission	Motion to Amend Application
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ALPINA, TOVARNA OBUTVE, D.D., ZIRI,

Opposer,

v.

TSA CORPORATE SERVICES, INC.

Applicant.

Opposition No. 91170091

Applications Serial Nos.

78445593 (ALPINE DESIGN &
DESIGN)

78445587 (ALPINE DESIGN)

MOTION TO AMEND APPLICATIONS


Pursuant to 37 CFR § 2.133(a) and TBMP 514, Applicant TSA Corporate Services, Inc. (“TSA”), by its counsel Honigman Miller Schwartz and Cohn LLP, moves the Board for leave to amend the two above-captioned applications in the manner specified below. On numerous occasions, most recently May 10, 2010, counsel for TSA contacted counsel for Opposer (“Alpina”) for its consent in this motion. Alpina has thus far declined to give a response. The motion should be granted, because it significantly narrows the matters at issue in this proceeding, and will speed the ultimate resolution of the dispute.

TSA moves to amend the applications that are subject to this proceeding—each of which are §1(b) intent to use applications—as follows:

** In both Serial No. 78445593 and 78445587, striking the description of goods in International Class 025 entirely;*

** In both Serial No. 78445593 and 78445587, striking the description of goods in International Class 028, except for the words “air mattresses for recreational use.”*

As a result, the amended applications would read as follows:

Mark	Classes	Goods
	28	Air mattresses for recreational use
ALPINE DESIGN	28	Air mattresses for recreational use

It is well within the Board discretion to grant such motions, even without Alpina’s consent. TBMP 514.03. Here, there is no logical reason *not* to grant the motion. The motion achieves the end result that Alpina has sought in this Opposition all along: the termination of TSA’s subject applications with respect to footwear, boots, and snow sports goods. Each one of its own prior registrations on which Alpina relies covers only boots and other footwear. See Notice of Opp. ¶3; Notice of Reliance #1. This motion eliminates from the subject applications all goods that are even arguably similar to those goods.

The amendment will also significantly speed the Board’s resolution of this Opposition. Rather than the parties and the Board needing to apply all thirteen *duPont* likelihood of confusion factors to the parties’ respective footwear goods, the comparison will be much more straightforward: Alpina’s footwear versus TSA’s air mattresses. The required amount of evidence during TSA’s testimony period and Alpina’s rebuttal period, and the required analysis during the trial period, will be much reduced—if, indeed, the Opposition proceeds to trial on that basis at all. The always-weighty interest of judicial economy, therefore, militates heavily in favor of granting the motion.

Wherefore, TSA respectfully requests that the Board grant its motion, and allow amendment of the subject applications as described above.

Respectfully submitted,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

Dated: May 11, 2010

By: /s/ Brian D. Wassom

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on May 11, 2010, I filed a copy of the foregoing document with the Board via the ESTTA system, and served a copy on opposing counsel by U.S. Mail at the following address:

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By: /s/ Brian D. Wassom

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