UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

vw

Mailed: February 25, 2011

Opposition No. 91180200

New Age Industries, Inc.

v.

SYNNEX Corporation

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On February 9, 2011, applicant filed the parties' stipulation comprising applicant's proposed amendment to its application Serial No. 78967542.

By the proposed stipulated amendment, applicant seeks to change the identification of services (in International class 37), as follows,

From:

"Refurbishing and remanufacturing of electronic equipment to the order and specification of others"

To:

"Refurbishing, repairing, rebuilding and restoring electronic equipment to the order and specification of others, excluding refurbishing, repairing, rebuilding and restoring of automatic identification and RFID equipment and systems for use in the fields of pharmaceutical, biomedical, food, beverage and medical devices."

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer

consents thereto, it is approved and entered. *See* Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c). In addition, applicant is allowed until **THIRTY DAYS** from the mailing date of this order in which to file a withdrawal of the counterclaim, failing which, the proceeding will go forward with respect to the counterclaim.[1] See Trademark Rule 2.114(c).

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[1] It is recommended that the parties file a stipulation (signed by both parties) clearly articulating how they agree to have the opposition and counterclaim dismissed (with prejudice, without prejudice) to avoid any misunderstanding. Because answers are of record, if the withdrawals are made with the written consent of the adverse party, judgment is enterd against the withdrawing party.