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Filing date: **04/30/2009**

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

Proceeding	91183717
Party	Defendant EIGHTY-EIGHT, LLC
Correspondence Address	NICHELLE NICHOLAS LEVY ROBINSON BRADSHAW & HINSON SUITE 1900 , 101 NORTH TRYON STREET CHARLOTTE, NC 28246 UNITED STATES NLEVY@RBH.COM
Submission	Motion to Amend Application
Filer's Name	Robert H. Cameron
Filer's e-mail	rcameron@rbh.com
Signature	/robert h cameron/
Date	04/30/2009
Attachments	88 Motion to Amend.pdf ( 3 pages )(94086 bytes )

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

In the matter of: Serial No. 78/830,746  
Date of filing: March 7, 2006  
Mark: 88

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88 Tees Hawaii, Inc. )  
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 Opposer, )  
 )  
 v. )  
 )  
 Eighty-Eight, LLC )  
 )  
 Applicant. )

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**Opposition No. 91183717**

Commissioner for Trademarks  
P.O. Box 1453  
Alexandria, VA 22313-1451

**APPLICANT'S MOTION ON CONSENT  
TO REQUEST AMENDMENT OF APPLICATION**

Pursuant to Trademark Rule 2.133 (37 C.F.R. § 2.133), Eighty-Eight, LLC ("Eighty-Eight"), by and through its undersigned counsel, hereby respectfully requests that Application Serial No. 78/830,746 ("the Application") be amended. Eighty-Eight requests that the original identification of goods in International Class 25 be deleted in its entirety and the following identification of goods be substituted therefor:

--Clothing marketed as goods associated with, and bearing another physically associated and clearly discernable designation of, a stock car racing team, namely, sweatshirts, sweat pants, sweat suits, warm-up suits, shirts, sport shirts, golf shirts, T-shirts, tank tops, sweaters, dresses, skirts, jerseys, long pants, sport shorts, shorts, bathing suits, pants, jackets, coats, hats, caps, bandanas, visors, belts, suspenders, head bands, wrist bands, socks, hosiery, footwear, gloves, scarves, neckties, raincoats, ponchos, pajamas, night shirts, night gowns and robes; masquerade costumes, namely, replica driver suits, replica driver helmets and baseball uniforms; infant wear; and cloth baby bibs not of paper--

Eighty-Eight has requested and has received a consent to this motion from Opposer's counsel, Colin O. Miwa, Esq., in correspondence dated April 29, 2009. Eighty-Eight requests this amendment to the identification of goods in the Application pursuant to a Coexistence Agreement entered into by Eighty-Eight and Opposer dated April 17, 2009 in which the parties agreed that by limiting the scope of the Application (and usage of the mark), that their dispute could be resolved amicably.

Accordingly, the parties request that the Board approve this amendment and remand the Application to the Examining Attorney.

A copy of this motion on consent is being sent to Opposer's counsel.

Respectfully submitted,  
**ROBINSON, BRADSHAW & HINSON, P.A.**

By:



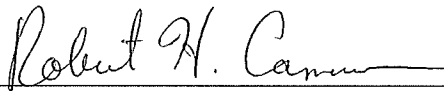
Robert H. Cameron, Esq.  
101 N. Tryon Street, Suite 1900  
Charlotte, North Carolina 28246  
(704) 377-2536  
**Attorney for Eighty-Eight, LLC**  
Email: rcameron@rbh.com

Dated: April 30, 2009

**CERTIFICATE OF SERVICE**

I certify that a the foregoing *Applicant's Motion on Consent to Request Amendment of Application*, was served on Opposer by mailing a copy by first class mail, postage prepaid, and by sending a copy by facsimile on the 30<sup>th</sup> day of April, 2009, to Opposer's counsel at the following address:

Colin O. Miwa, Esq.  
Cades Schutte LLP  
1000 Bishop Street  
12<sup>th</sup> Floor  
Honolulu, Hawaii 96813

  
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Robert H. Cameron