

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

Am

Mailed: May 5, 2009

Opposition No. 91183722

88 Tees Hawaii, Inc.

v.

Eighty-Eight, LLC

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On April 30, 2009, applicant filed a proposed amendment to its application Serial No. 78830750, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of good in Class 25 **from**

clothing marketed as goods associated with 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

to

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.¹

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).

Proceedings are otherwise suspended, as requested by applicant's consented motion of May 4, 2009.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

¹ The wording in italics is added.

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http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>