

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

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Mailed: June 1, 2009

Opposition No. 91183722

88 Tees Hawaii, Inc.

v.

Eighty-Eight, LLC

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

Now before the Board is applicant's second proposed amendment for its application Serial No. 78830750, filed on May 26, 2009. By the first consented amendment, the identification to Class 25 was changed. Such amendment has been entered. Class 25 is the only opposed class of goods. Insofar as the Board presently has jurisdiction over the application, applicant's May 26, 2009 consented amendment is being considered.

The proposed amendment now seeks to change the identification of goods and services in International Classes 9 and 41. With respect to Class 9, applicant seeks to change the identification **from**

audio, video, computer and laser discs featuring sports **and music**; pre-recorded audio and video cassettes, pre-recorded audio and video tapes, pre-recorded compact discs, and pre-recorded computer discs featuring sports **and music**; computer accessories, namely, computer mice, computer mouse pads, computer disc cases, computer

carrying cases and keyboard wrist pads for computer users; computer software for storing, receiving, retrieving, displaying, analyzing and processing information, data, statistics and trivia relating to sports **and music**; computer software for use as a screen saver featuring sports **and music**; video game computer software; video game cartridges; video game machines for use with a television; radios; telephones; walkie-talkies; binoculars; sunglasses; eyeglass cases; decorative magnets; cellular telephone carrying cases¹

to

audio, video, computer and laser discs featuring sports; pre-recorded audio and video cassettes, pre-recorded audio and video tapes, pre-recorded compact discs, and pre-recorded computer discs featuring sports; computer accessories, namely computer mice, computer mouse pads, computer disc cases, computer carrying cases and keyboard wrist pads for computer users; computer software for storing, receiving, retrieving, displaying, analyzing and processing information, data, statistics and trivia relating to sports; computer software for use as a screen saver featuring sports; video game computer software; video game cartridges; video game machines for use with a television; radios; telephones; walkie-talkies; binoculars; sunglasses; eyeglass cases; decorative magnets; cellular telephone carrying cases.

Applicant seeks to amend Class 41 **from**

Entertainment services in the nature of participating in professional automobile races and auto racing exhibitions; entertainment services in the nature of baseball games and related exhibitions; **entertainment services in the nature of live musical concerts; entertainment, namely, live performances by a musical band**; entertainment in the nature of visual and audio performances, **and musical**, variety, news and comedy shows²

to

entertainment services in the nature of participating in professional automobile races and auto racing exhibitions; entertainment services in the nature of baseball games and related exhibitions; entertainment in

¹ The wording in bold-italics is deleted.

² The wording in bold-italics is deleted.

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the nature of visual and audio performances, and variety, news and comedy shows.

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).
