

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

tlc

Mailed: June 10, 2009

Opposition No. 91183831

The 88

v.

Eighty-Eight, LLC

Angela Lykos, Interlocutory Attorney

On June 5, 2009, applicant filed a proposed amendment to its application Serial No. 78830746, with opposer's consent. By the proposed amendment applicant seeks to change the identification of goods and services in classes 9 and 41 from:

International Class 9: 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 cases

International Class 41: 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 shows

to:

International Class 9: 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 and; 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

International Class 41: 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 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).¹

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>
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>

¹Insofar as the application is the subject of a Board proceeding, remand to the examining attorney is not appropriate.