

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

mc

Mailed: September 15, 2010

Opposition No. 91194391

Bayer Aktiengesellschaft

v.

Absolutely Green, LLC

Frances S. Wolfson, Interlocutory Attorney:

On September 2, 2010, applicant filed a proposed amendment to its application Serial No. 77821331.¹ The amendment does not reflect that it is made with opposer's consent.

By the proposed amendment applicant seeks to change the recitation of goods in International Class 5 **from** "Insect repellents" **to** "Insect repellents for human use only and sold in containers not to exceed eight ounces in weight."

The amendment to the identification of goods in International Class 5 is limiting in nature as required by

¹The filing fails to indicate proof of service on opposer as required by Trademark Rule 2.119. In order to expedite this matter, opposer is directed to the following URL where it may view a copy of the filing:
<http://ttabvueint.uspto.gov/ttabvue/v?pno=91176094&pty=OPP&eno=17>

Strict compliance with Trademark Rule 2.119 is required by applicant in all future papers filed with the Board.

Trademark Rule 2.71(b). However, opposer's consent thereto is not of record. Where an unconsented motion to amend an application that is involved in an *inter partes* proceeding is filed before trial, the Board generally will defer determination of the motion until final decision. See TBMP § 514.03 (2d ed. rev. 2004).

Accordingly, proceedings herein are suspended to allow applicant until **TWENTY DAYS** from the date of this order to notify the Board in writing, if accurate, that opposer consents to the proposed amendment. If applicant does not respond within the time allotted, or if applicant, or opposer, notifies the Board in writing that opposer does not consent to the proposed amendment, proceedings will be resumed and the opposition will go forward on the application as presently worded in International Class 5.