

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

EJW/vb

Mailed: September 9, 2011

Opposition No. 91196411

EKCO Housewares, Inc.

v.

SINDIVIDRO - Sindicato da
Indústria de Vidros e
Cristais Planos e Ocos no
Estado de São Paulo

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On August 11, 2011, applicant filed an amended motion¹ in which it seeks to amend its application Serial No. 77823411, pursuant to the parties' settlement agreement. Applicant states that opposer will withdraw the opposition in exchange for, *inter alia*, the amendment of the identified goods, as discussed below. The Board construes applicant's assertion regarding the parties' agreement as an allegation of opposer's consent to the proposed amendment.

By the proposed amendment, applicant seeks to change the identification of goods as follows:

From:

Household or kitchen utensils and containers made of semi-worked glass, namely, beverage glassware, bowls, and

¹ In view thereof, applicant's motion filed on August 4, 2011, will not be given any further consideration.

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vases; candle rings and holders, decorative glass centerpieces, glass beverage ware, glass sculpture, serving ware, namely, spoons, tongs; snack trays, namely, serving trays.

To:

Products made of glass for decoration purposes, namely, vases, candle rings and holders, decorative glass centerpieces, glass sculptures.

The proposed amendment is denied because the proposed wording expands the scope of part of the identification of goods as published, which is not permissible. See Trademark Rules 2.71(a) and 2.133(a), 37 C.F.R. §§ 2.71(a) and 2.133(a). See also TMEP § 1402.06 (7th ed. 2010). Specifically, the wording "Products made of glass for decoration purposes, namely, vases," as proposed, is broader than "containers made of semi-worked glass," in the original identification.²

Inasmuch as the parties appear desirous of settling this matter, applicant is allowed until **THIRTY DAYS** from the date of this order to file a consented amendment to the identification of goods that is in compliance with Trademark Rule 2.71(a), 37 C.F.R. § 2.71(a), failing which this proceeding will resume based on the current identification of goods.

This proceeding is otherwise SUSPENDED.

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² For information purposes only, the following modified identification would be acceptable under Trademark Rule 2.71(a): "Containers made of semi-worked glass, namely, vases; products made of glass for decoration purposes, namely, candle rings and holders, decorative glass centerpieces, and glass sculptures."