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Filing date: **03/29/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200803
Party	Defendant Anibal de Oliveira Fortuna
Correspondence Address	ANIBAL DE OLIVEIRA FORTUNA AV ALM COCHRANE, 83 APTO 161 SANTOS SP, 11040-001 BRAZIL anibal.fortuna@uol.com.br
Submission	Motion to Amend Application
Filer's Name	Anibal de Oliveira Fortuna
Filer's e-mail	anibal.fortuna@uol.com.br
Signature	/aofortuna/
Date	03/29/2013
Attachments	ttabvue-91200803-Amendment-Id_Goods_Services-29-3-2013.pdf (5 pages) (214115 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of App. Serial No.:

Mark:

Published:

77/837,542
AIRGEL
March 29, 2011

)

REMINGTON PRODUCTS COMPANY)

) **Opposition No. 91200803**

Opposer,)

)

v.)

)

ANIBAL DE OLIVEIRA FORTUNA)

)

Applicant.)

)

**APPLICANT APPEAL TO THE BOARD REQUESTING
AMENDMENT OF THE IDENTIFICATION OF GOODS AND SERVICE
OF ITS PROPOSED TRADEMARK "AIRGEL".**

Applicant, Anibal de Oliveira Fortuna ("Applicant"), is a physician resident in Brazil, who has applied for the registration in the US for the "AIRGEL" word mark as shown in Application Serial No. 77/837,542 (the "Application"), filed September 29, 2009 and is now self-defending its proposed trademark within this Trademark and Appeal Board, against Opposition made by REMINGTON PRODUCTS COMPANY ("Opposer"), a company established at 961 Seville Road, Wadsworth, Ohio 44281.

The following is a timely formal **APPLICANT'S appeal to the Board** requesting an amendment of the present Identification of *Goods and Services* of Applicant's proposed trademark "Airgel".

Applicant found necessary to clarify and limit the actual Identification of Goods and Services of Applicant's proposed trademark "Airgel" based on TBMP §1402.06; TMEP §1402.07 et seq. under 37 C.F.R. §2.71(a) to avoid misinterpretations.

"Under 37 C.F.R. §2.71(a), an applicant may amend "to clarify" the identification of goods and/or services. The applicant may clarify an identification that is indefinite or overly broad, to identify goods and/or services that are within the scope of the goods and services in the identification".

Applicant's proposed trademark, has been misinterpreted by the Opposer due to perhaps the broader sense of its actual Identification of Goods and Services.

Complying with *TBMP §1402.06* Applicant's wishes to respectfully request the following amendment to be made only on the Identification of Goods and Services of its Application Serial **No. 77/837,542**:

Mark: Airgel

Goods and Services: International Class 010

Identification Text:

From: *"Special air pressure cuffs with thermally conformable gel padded external walls, for medical use" (Exhibit "A")*

To be amended to: *"Special pressure cuff with thermally conformable walls applied to seal respiratory masks used in airway devices"*

This proposed amendment on the Identification of Goods and Services, restricting and clarifying the uses of the Applicant's trademark "Airgel", will be of a great importance on avoiding related misunderstandings, like the one that Opposer has placed as a core for its opposition.

With the Board acceptance of this proposed amendment on the Identification of Goods and Services of the Applicant's mark "Airgel", there will be no more reasonable grounds for Opposer to persist on its dispute.

Applicant respectfully requests that this appeal to be analyzed and the proposed amendment made present as part of the main process in favor of this non-movant part.

Respectfully submitted,

/aofortuna/

Anibal de Oliveira Fortuna - Applicant

Date: March 29, 2013

ANIBAL DE OLIVEIRA FORTUNA
AV. ALM. COCHRANE, 83 APTO. 161
11040-001 SANTOS, SP - BRAZIL

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing “**APPLICANT APPEAL TO THE BOARD REQUESTING AMENDMENT OF THE IDENTIFICATION OF GOODS AND SERVICE OF ITS PROPOSED TRADEMARK “AIRGEL”**” was forwarded to OPPOSER’S, legal representatives for REMINGTON PRODUCTS COMPANY: Edward G. Greive and Laura J. Gentilcore from RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER, on March 29, 2013 and was deposited on the next working day within the Brazilian Postal Office, via First Class Certified Mail, postage prepaid, addressed to Counsel for Opposer at the following address:

Mr. EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
106 S MAIN STREET FIRST NATIONAL TOWER, SUITE 400
AKRON, OH 44308-1412
UNITED STATES OF AMERICA

/aofortuna/

Anibal de Oliveira Fortuna
Applicant

Sign electronically and sent to the Opposer at the same date and time, via electronic mail to the following addresses: “eggreive@rennerkenner.com” and “ljgentilcore@rennerkenner.com”

Exhibit A

Trademark Electronic Search System (TESS)



Trademarks > Trademark Electronic Search System (TESS)

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AirGel

Word Mark	AIRGEL
Translations	The wording "AIRGEL" has no meaning in a foreign language.
Goods and Services	IC 010. US 026 039 044. G & S: Special air pressure cuffs with thermally conformable gel padded external walls, for medical use
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77837542
Filing Date	September 29, 2009
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	March 29, 2011
Owner	(APPLICANT) Fortuna, Anibal de Oliveira INDIVIDUAL BRAZIL Av. Alm. Cochrane, 83 apto. 161 Santos, SP BRAZIL 11040-001
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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