

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

nmt

Mailed: February 1, 2013

Opposition No. 91207474

Outlier Solutions Inc.

v.

Outlier Enterprises, LLC

Andrew P. Baxley, Interlocutory Attorney:

On January 24, 2013, applicant filed a consented motion to amend its involved application Serial No. 85560270, pursuant to a settlement agreement between the parties.

Application Serial No. 85560270 is the subject of both this opposition and Opposition No. 91207478, wherein the opposer is Outlier Inc. When a motion to amend an application is filed that is also the subject of an Board other *inter partes* proceeding, the consent of the other parties in each of those other proceedings must be of record before the amendment may be approved. Trademark Rule 2.133(a) and TBMP Section 514.02 (3d ed. rev. 2012). Applicant has not indicated the consent of Outlier Inc., the opposer in Opposition No. 91207478, to the proposed amendment.

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Moreover, in the proposed amendment, applicant seeks to change the recitation of services **from** "Application service provider (ASP), namely, hosting computer software applications of others; Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of personal productivity, wireless communication, mobile information access, and remote data management for wireless delivery of content to handheld computers, laptops and mobile electronic devices; Computer software development; Computer software development in the field of mobile applications" **to** "Computer software development in the field of mobile applications and application service provider, namely hosting mobile applications for others." The proposed amendment is unacceptable because it is beyond the scope of the published recitation of services and is therefore in contravention of Trademark Rule 2.71(a). In particular, the recitation of services as published for opposition was limited to "[a]pplication service provider, namely, hosting ... applications ... in the fields of personal productivity, wireless communication, mobile information access, and remote data management for wireless delivery of content to handheld computers, laptops and mobile electronic devices." The proposed amended recitation deletes the identified

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fields and therefore impermissibly expands the scope of the recitation of services.

Accordingly, the motion to amend the involved application is denied. In view of such denial, the Board will not consider applicant's motion (filed January 21, 2013) to dismiss this proceeding in view of the parties' settlement.

The parties are allowed until thirty days from the mailing date set forth in this order to negotiate and file a revised amendment to the recitation of services.

Proceedings herein are otherwise suspended.