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Filing date: **02/07/2014**

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

Proceeding	91210030
Party	Defendant Upright, Inc.
Correspondence Address	WILLIAM J BRUCKER STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE STE 250 ALISO VIEJO, CA 92656-2681 UNITED STATES opposition@stetinalaw.com
Submission	Motion to Amend Application
Filer's Name	William J. Brucker
Filer's e-mail	opposition@stetinalaw.com
Signature	/William J. Brucker/
Date	02/07/2014
Attachments	[02 07 14] Amendment and Withdrawal.pdf(73705 bytes )

Case: UPWDL-011M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
**In the Matter of Trademark Application Serial No. 85/576,325**

Western Digital Technologies, Inc.,	)	Opposition No.: 91210030
	)	
Opposer	)	
	)	
vs.	)	
	)	
Upright, Inc.,	)	
	)	
Applicant	)	

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**APPLICANT’S REQUEST FOR AMENDMENT OF TRADEMARK**  
**APPLICATION WITH OPPOSER’S CONSENT AND STIPULATED REQUEST**  
**FOR DISMISSAL OF OPPOSITION WITH PREJUDICE UPON ENTRY OF THE**  
**AMENDMENT**

Without either party conceding their respective positions, the parties to the present opposition have reached a potential resolution which is contingent upon the Board’s entry of an amendment to the goods description as specified below. If the Board grants Applicant’s request for amendment, the parties stipulate to dismissal of the opposition with prejudice.

Applicant Upright, Inc, pursuant to TBMP §514.01-02, hereby requests amendment of the application for registration of its trademark WD, Serial No. 85/576,325 filed March 21, 2012 and published in the Official Gazette of March 5, 2013 as follows:

**AMEND International Classification 009 to read as follows (strikethrough to be deleted):** Interactive video game programs; Interactive multimedia computer game

program; 3D eyewear; ~~Video game cartridges; Video game discs;~~ Video game software; ~~Computer game discs;~~ Computer game programs; ~~Computer game cartridges;~~ Computer game software; Eyewear, namely, goggles and sunglasses, helmets for sports, namely, skateboarding, motorcycling and wake boarding; water ski safety vest for wake boarding

**International Classification 016– No Changes**

Applicant makes no request to amend class 016 goods description.

**International Classification 028 – No Changes**

Applicant makes no request to amend the class 028 services specification.

**International Classification 041 – No Changes**

Applicant makes no request to amend the class 041 services specification.

Applicant respectfully requests amendment of International Classification 009, as stated above, with no change to International Classifications 016, 028 and 041. This Request for Amendment is being filed with the written consent of the Opposer. The identification of goods, as amended, will resolve further dispute between the parties, allowing the present opposition to be resolved and as such, the requested amendment will serve the public interest.

In view of the foregoing, the parties to the above-captioned Opposition, by and through their respective undersigned counsel, hereby request that the Board enter an order amending applicant's trademark application consistent with the foregoing revised identification of goods. In addition, contingent upon the board's entry of the amended goods, the parties seek a stipulated dismissal, with prejudice of Opposition No. 91210030. However, should the Board find that the amendment to be not acceptable, the parties withdraw their stipulated request for dismissal with prejudice.

Each party shall bear its own costs and fees.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: 2/7/14

By: 

William J. Brucker  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246  
Counsel for Applicant  
Upright, Inc.

KNOBBE MARTENS OLSON & BEAR LLP

Dated: 2/4/14

By: 

Diane M. Reed  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614  
Counsel for Opposer  
Western Digital Technologies, Inc.

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**PROOF OF SERVICE**

State of California    )  
  ) ss.  
County of Orange     )

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **February 7, 2014**, the attached **APPLICANT’S REQUEST FOR AMENDMENT OF TRADEMARK APPLICATION WITH OPPOSER’S CONSENT AND STIPULATED REQUEST FOR DISMISSAL OF OPPOSITION WITH PREJUDICE UPON ENTRY OF THE AMENDMENT** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

DIANE M REED  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN ST, 14TH FLOOR  
IRVINE, CA 92614

Executed on **February 7, 2014** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.



\_\_\_\_\_  
Tara Hamilton