

ESTTA Tracking number: **ESTTA610502**

Filing date: **06/17/2014**

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

Proceeding	91213723
Party	Defendant Aces Athletics, LLC DBA Aces Athletics
Correspondence Address	WENDY PETERSON NOT JUST PATENTS LLC PO BOX 18716 MINNEAPOLIS, MN 55418 UNITED STATES wsp@NJPLS.com
Submission	Motion to Amend Application
Filer's Name	Wendy Peterson
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Signature	/Wendy Peterson/
Date	06/17/2014
Attachments	Motion to Amend Application.pdf(35181 bytes)

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

Opposition Proceeding 91213723

In the matter of Trademark Application No. 85730170

For the mark: ACES ATHLETICS

Publication Date: July 30, 2013

American Council on Exercise, Opposer

v.

Aces Athletics, LLC (*Utah Aces LLC* proposed hereafter), Applicant

**MOTION TO AMEND TO APPLICATION AND REQUEST FOR
SUSPENSION**

Applicant moves to amend the application SN 85730170 under TMEP 1201.02(c) Correcting Errors in How the Applicant Is Identified. If the party applying to register the mark is, in fact, the owner of the mark, but there is a mistake in the manner in which the name of the applicant is set out in the application, the mistake may be corrected by amendment. *U.S. Pioneer Elec. Corp. v. Evans Mktg., Inc.*, 183 USPQ 613 (Comm'r Pats. 1974). Aces Athletics LLC is a non-existent entity.

Applicant has been a single, continuing commercial entity and was the owner of the mark as of the filing date of the application and that entity in fact filed the application.

Opposer was asked but did not consent to an entity amendment as per Steven Marshal on 05/30/2014.

AMENDMENT: Applicant proposes to amend the owner name to Utah Aces LLC, dba Aces Athletics to correct the misidentification. Aces Athletics LLC is a non-existent entity.

Declaration under § 2.20: The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

/Wendy Peterson/
Wendy Peterson, Attorney of Record for Utah Aces LLC

June 17, 2014

Application asks for this proceeding to be suspended after the counterclaim and answer to the counterclaim have been filed subject to the Board decision on this issue because if the error is fatal and the amendment cannot be made, the opposition portion of this proceeding is moot if the application is void. However, even if the application becomes void, Applicant wishes to proceed on the counterclaim against Opposer regardless of the outcome of the entity amendment request.

Submitted By: /Wendy Peterson/

Date: June 17, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2014, the foregoing was served upon American Council on Exercise's attorney by email (as agreed by the parties in the discovery conference) to:

steven.mashal@acefitness.org

Note that Opposer asked Applicant to please address all communications directly to the Branfman Law Group, P.C. in an email on May 30, 2014 but as of the date of the filing of this amendment, no appearance had been filed with the Board for anyone at Branfman Law Group. This filing was also sent by email to markr@branfman.com as a courtesy.

By: /Wendy Peterson/

Date: June 17, 2014

Wendy Peterson, Attorney for Applicant, Aces Athletics, LLC