

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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General Contact Number: 571-272-8500

Am

Mailed: May 27, 2015

Opposition No. 91215954

Waste Management, Inc.

v.

Wastemanagementonline.com, Inc.

**By the Trademark Trial and Appeal Board:**

On May 11, 2015, Applicant filed a stipulated motion to amend subject application Serial No. 86008934 and to contingently withdraw with prejudice the opposition.

Disclaimer

By the proposed amendment Applicant seeks to add “management” to the current disclaimer and proposes the following language:

No claim is made to the exclusive right to use “waste”, “online.com”, the recycling symbol, and “management” apart from the mark as shown.

Inasmuch as matter must be disclaimed in its entirety but the proposed disclaimer separates “waste,” “management” and “online.com,” the proposed amendment to the disclaimer is not acceptable. *See* TMEP § 1213.08(b). Although the original disclaimer separated “waste” and “online.com” because “management”

separated those words in the mark, if “management” is now to be disclaimed the disclaimer must be of the wording (in its entirety) as it appears in the mark.<sup>1</sup>

Date of Use

Applicant also moves to amend the “date of first use of the services” from “at least as early as 03/31/2001” to “at least as early as 10/30/2012.” It is unclear whether Applicant seeks to amend the date of first use of the mark anywhere, the date of first use of the mark in commerce, or both dates.<sup>2</sup> In addition, any change to the dates of use must be supported by an affidavit or declaration under Trademark Rule 2.20; however, no affidavit or declaration was submitted. *See* TMEP § 903.04.

Suspension

Inasmuch as neither amendment can be accepted in its current form, the motion to amend and to contingently dismiss is denied without prejudice; and, proceedings are suspended for thirty days to allow Applicant to correct the deficiencies by way of an amended motion to amend. If no amended motion is filed within thirty days, proceedings will be resumed and dates will be reset accordingly.

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<sup>1</sup> A properly worded disclaimer should read as: No claim is made to the exclusive right to use “WASTE MANAGEMENT ONLINE.COM” or THE RECYCLING SYMBOL apart from the mark as shown.

<sup>2</sup> Logically, Applicant cannot amend the date of first use anywhere to a date that is after the date of first use in commerce. Still, it is unclear whether Applicant seeks to amend only the date of first use in commerce or both use dates.