

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mt

Mailed: May 9, 2016

Opposition No. 91222960

University of South Carolina

v.

Heckler & Koch GmbH

Opposition No. 91222961

University of Southern California

v.

Heckler & Koch GmbH

Andrew P. Baxley, Interlocutory Attorney:

On April 26, 2016, Applicant filed separate, different consented proposed amendments to its involved application Serial No. 79150583 in each of the above-captioned proceedings.

By the proposed amendments, Applicant seeks to amend the identification of goods in International Class 8 **from** "Cutlery, side arms, namely, swords, bayonets, hunting knives, fishing knives and pocket knives" **to** "Cutlery, side arms, namely swords, bayonets, hunting knives and fishing knives, sold through distributors and sellers controlled by, or affiliated with, the trademark owner" in International Class 8. The amendment in International Class 8 is limiting in nature, as required by Trademark

Rule 2.71(a). Because opposer consents thereto, the amendment in International Class 8 is approved and entered. *See* Trademark Rule 2.133(a).

A review of the proposed amendments indicates that they are otherwise not identical. If an application is the subject of multiple oppositions, the consent of the opposers in each of the oppositions must be of record before the amendment may be approved. *See* TBMP § 514.02 (2015). Thus, Applicant must submit a single proposed amended identification to which both opposers have consented.

The current identification in the involved application in International Class 13 is "Firearms; ammunition and projectiles; explosives; fireworks; air pistol weapons; air gun weapons; stun guns; soft-air-weapons, namely, air rifles, air pistols." In Opposition No. 91222960, Applicant seeks to change the identification in that class to "Firearms; ammunition and projectiles; explosives; fireworks; air pistol weapons; air gun weapons; stun guns; soft-air-weapons, namely, air rifles, air pistols, sold either through distributors and retailers authorized by the trademark owner or sold by the trademark owner directly to military and law enforcement agencies." In Opposition No. 91222961, Applicant seeks to change the identification in that class to "Firearms; ammunition and projectiles; explosives; fireworks; air pistol weapons; air gun weapons; stun guns; soft-air-weapons, namely, air rifles, air pistols, sold to military and law enforcement agencies and/or through authorized retail outlets." Applicant must submit a single revised proposed amendment in this class to which both Opposers have consented.

The current identification of goods in International Class 28 is “Toy weapons; toy air pistols; toy air guns; toy pistols; toy paintball guns.” The identification in that class is unchanged in Opposition No. 91222960; however, in Opposition No. 91222961, Applicant seeks to change the identification in that class to “Toy weapons, namely replicas of Heckler & Koch weapons.” In addition, the Board notes that HECKLER & KOCH is the subject of Registration No. 3171109. An applicant should not use its own registered or unregistered mark in an identification of goods or services in its own application. *See* TMEP § 1402.09 (April 2016). Applicant must submit a single revised proposed amendment in this class to which both Opposers have consented.

Applicant is allowed until thirty days from the mailing date set forth in this order to submit revised amendments in International Classes 13 and 28 in accordance with the foregoing. Proceedings in the above-captioned proceedings are otherwise suspended.