

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

vw/al

Mailed: September 6, 2017

Opposition No. 91222989

*M&D Wholesale Distributors, Inc.*

*v.*

*BRAZIL Network GmbH*

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

On July 20, 2017, Applicant filed a consented motion to amend subject application Serial No. 79152327; and on August 1, 2017, Opposer filed a withdrawal of the opposition with prejudice, contingent upon entry of the amendment.

Amendment of Classes 34 and 35

Applicant seeks to amend the identification of goods and services in Classes 34 and 35 to the following:<sup>1</sup>

- *International Class 34*

**From:**

~~Tobacco; smoker's articles, namely, cigarettes, cigars, cigarillos, smoking tobacco, tobacco pipes, pipe filters, pipe cleaners, pipe stands, pipe stems and pipe tools, all not made of precious metal or plated, moisture retaining containers for tobacco products, cigarette papers, cigarette rolling apparatus, cigarette sleeves, cigarette sleeve fillers, cigarette holders not made of precious metal or plated, tobacco pouches, lighter flints and firestones, cartons and pouches for cigars, cigarettes, pipes, snuff and tobacco,~~

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<sup>1</sup> Opposed International Class 18 and unopposed International Classes 3, 9, 14, 16, 22, 25, 26, 28, 30, 32 and 41 remain unchanged.

~~ashtrays not made of precious metal or plated, herbs for smoking, tobacco tins not made of precious metal or plated, containers for cigar and cigarette lighters, gas pocket cigarette lighters not made of precious metal or plated, gasoline cigarette lighters, snuff, snuff takers' articles, namely, snuff boxes and snuff dispensers not made of precious metal or plated, chewing tobacco; parts and fittings for all the aforesaid goods, matches.~~

**To:**

Smoker's articles, namely, matches.

- *International Class 35*

**From:**

Retail store services, also via the Internet, also via teleshopping programs and online and/or catalog mail order services featuring bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, sun screen preparations, pre-recorded CD Roms, permanent storage devices, audio and video recordings, audio and video tapes, cassette tape recorder, CD digital music player, glasses and sun glasses, encoded telephone cards, jewelry, precious stones, stainless steel watches, in the nature of horological and chronometric instruments, badges of honor made from precious metals, jewelry, namely, ornamental pins and key fobs, printed matter; photographs, instructional and teaching material except apparatus, paper, cardboard and goods made from these materials, stationery, typewriters and office requisites, except furniture, posters, picture postcards, collector cards and marks, decals, stickers in the nature of stationery goods, collector's booklets, collectable picture cards, letterhead paper, correspondence cards, flags of paper, leather and imitations of leather, and goods made of these materials, trunks and travelling bags, umbrellas, parasols, walking sticks, ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks and bags, padding and stuffing materials, except of rubber or plastics, raw fibrous textile materials, raw textile fibres and their substitutes, plastic fibers for textile use, vitreous silica fibers for textile use, textile fibers, fiberglass fabrics, for textile use, esparto grass, unprocessed organic cotton, clothing, footwear, headgear, appliqués in the nature of patches, haberdashery, textile monograms, association and sporting badges or sample appliqués for textile ironing, sewing or adhesive bonding on textiles, fabric patches, ornamental pins not made of precious metals or clad, sporting badges, not made of precious metal, association ornamental pins as badges, not made of precious metals, games and playthings, gymnastic and sporting articles, playing cards, coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, flour and preparations made from cereals, bread, pastry and confectionery, ices, honey, treacle, yeast, baking powder, salt, mustard, vinegar, sauces as condiments, spices, ice, sweets, beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, coconut water, syrups and other preparations for making beverages, ~~tobacco~~, smoker's articles, matches.

**To:**

Retail store services, also via the Internet, also via teleshopping programs and online and/or catalog mail order services featuring bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, sun screen preparations, pre-recorded CD Roms, permanent storage devices, audio and video recordings, audio and video tapes, cassette tape recorder, CD digital music player, glasses and sun glasses, encoded telephone cards, jewelry, precious stones, stainless steel watches, in the nature of horological and chronometric instruments, badges of honor made from precious metals, jewelry, namely, ornamental pins and key fobs, printed matter; photographs, instructional and teaching material except apparatus, paper, cardboard and goods made from these materials, stationery, typewriters and office requisites, except furniture, posters, picture postcards, collector cards and marks, decals, stickers in the nature of stationery goods, collector's booklets, collectable picture cards, letterhead paper, correspondence cards, flags of paper, leather and imitations of leather, and goods made of these materials, trunks and travelling bags, umbrellas, parasols, walking sticks, ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks and bags, padding and stuffing materials, except of rubber or plastics, raw fibrous textile materials, raw textile fibres and their substitutes, plastic fibers for textile use, vitreous silica fibers for textile use, textile fibers, fiberglass fabrics, for textile use, esparto grass, unprocessed organic cotton, clothing, footwear, headgear, appliqués in the nature of patches, haberdashery, textile monograms, association and sporting badges or sample appliqués for textile ironing, sewing or adhesive bonding on textiles, fabric patches, ornamental pins not made of precious metals or clad, sporting badges, not made of precious metal, association ornamental pins as badges, not made of precious metals, games and playthings, gymnastic and sporting articles, playing cards, coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, flour and preparations made from cereals, bread, pastry and confectionery, ices, honey, treacle, yeast, baking powder, salt, mustard, vinegar, sauces as condiments, spices, ice, sweets, beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, coconut water, syrups and other preparations for making beverages, smoker's articles, namely, matches.<sup>2</sup>

Inasmuch as the proposed amendments to Classes 34 and 35 are limiting in nature, as required by Trademark Rule 2.71(a), and because Opposer consents thereto, the amendments are **APPROVED** and entered. *See* Trademark Rule 2.133(a).

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<sup>2</sup> The Board followed the version provided on page 8 of the amendment which contains only the word "tobacco" with a line through it.

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The contingency in Opposer's withdrawal having now been met, the opposition is  
**DISMISSED with prejudice.**