

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/mbm

Mailed: July 18, 2017

Opposition No. 91223009

C. R. Bard, Inc.

v.

Medline Industries, Inc.

Mary Beth Myles, Interlocutory Attorney:

On May 31, 2017, Applicant filed a proposed amendment to its involved application Serial No. 86366608, with Opposer's consent.

Amendments to International Classes 5 and 10¹

By the proposed amendments, Applicant seeks to amend International Classes 5 and 10 as indicated below (the stricken wording is deleted).

- *International Class 5*

Applicant seeks to amend the identification of goods in International Class 5 as follows:

From:

Medicated, medical, pharmaceutical, dental and sanitary preparations and products, namely, medicated skin care preparations, cleansers for skin and wounds, anti-fungal creams and powders, anti-microbial soap, no-rinse head and body cleanser; wound care products, namely, dressings, adhesive

¹ Unopposed International Classes 3, 9, 11, 12, 16, 20, 21, 22, 24, 25, 27 and opposed International Class 35 remain unchanged.

bandages, medical and surgical adhesive tape, gauze, nylon strips, topical first aid gel, topical gel for medical and therapeutic treatment of wound care; sanitary belts, sanitary pads, tampons, oral wound rinse, pre-moistened medical wipes, ~~air deodorizers~~, disinfectants for hygienic and sanitary purposes, disinfectants for medical instruments, incontinence pads, adult diapers, nutritional and dietary supplements in powder and liquid form, disinfectant wipes made of fabric or paper, skin lotions, skin creams and skin ointments for medical use, cataract eye care kits composed of eye washes and protective glasses; disposable liners for use with disposable incontinent briefs and undergarments; Irrigation and urology solutions, namely, saline solutions; preparations for medical use, namely, isopropyl alcohol, alcohol treated prep pads, hydrogen peroxide, lubricating jelly, sitz bath, and providone/iodine solutions; re-usable incontinence garments; incontinence garments and pads; disposable diapers for incontinence; cloth diapers for adults.

To:

Medicated, medical, pharmaceutical, dental and sanitary preparations and products, namely, medicated skin care preparations, cleansers for skin and wounds, anti-fungal creams and powders, anti-microbial soap, no-rinse head and body cleanser; wound care products, namely, dressings, adhesive bandages, medical and surgical adhesive tape, gauze, nylon strips, topical first aid gel, topical gel for medical and therapeutic treatment of wound care; sanitary belts, sanitary pads, tampons, oral wound rinse, pre-moistened medical wipes, disinfectants for hygienic and sanitary purposes, disinfectants for medical instruments, incontinence pads, adult diapers, nutritional and dietary supplements in powder and liquid form, disinfectant wipes made of fabric or paper, skin lotions, skin creams and skin ointments for medical use, cataract eye care kits composed of eye washes and protective glasses; disposable liners for use with disposable incontinent briefs and undergarments; Irrigation and urology solutions, namely, saline solutions; preparations for medical use, namely, isopropyl alcohol, alcohol treated prep pads, hydrogen peroxide, lubricating jelly, sitz bath, and providone/iodine solutions; re-usable incontinence garments; incontinence garments and pads; disposable diapers for incontinence; cloth diapers for adults.

- *International Class 10*

Applicant seeks to amend the identification of goods in International Class 10 as follows:

From:

~~Medical devices, namely, dressing change trays, alternating pressure pumps, and pads, disposable bedside bags, single use cold and hot compresses, adhesive tape removal pads, enternal gravity feeding apparatus, sharps containers, skin scrub trays, bio-hazard bags for storing medical waste, resting electrodes, I.V. start kits consisting essentially of catheters, catheter placement device, tape, tourniquet, iodine prep capsule, alcohol swab, gauze, sponges, ointments, adhesive bandages, and identification labels; and shaving preparation sets comprised essentially of disposable razor and shaving cream; surgical, medical and dental apparatus, instruments, appliances, and supplies, namely, needle holders, I.V. needle caps, surgical blade handles, and forceps; electrosurgical products for medical use, namely, electrosurgical generators, electrosurgical pencils, and medical electrodes; surgical shears and spreaders; endoscopic instruments; neurosurgery instruments, namely, retractors, saws, dissectors, and elevators; rectal, laerimal, and disposable oximeter probes; medical and surgical scissors; medical instrument stringers and holders; surgical instrument identification tape and sheets; speculums; anesthesia masks; oxygen masks, oxygen tubing and bags, oxygen regulators, oxygen conservers and concentrators, and oximeters all for medical applications; respiratory regulators for artificial respiration, nasal aspirators; blood transfer and collection sets comprising blood collection tube holders, needles, gauges, and I.V. catheters; injection instruments with needles; bath guards for physical therapy and rehabilitation purposes; glucose monitoring systems comprising meter, case, test strips, control solutions, and lancing devices; ophthalmoscopes; otoscopes; disposable pen lights for medical use; stethoscopes; vital signs monitors; nebulizers; medical patient alarms and monitoring devices for monitoring patient or resident movement; hand protectors to prevent tube removal or tampering; stretchers and belts therefor; intravenous feeding tubes; containers, brackets and cabinets for medical waste; medical bags adapted for and sold with medical and surgical instruments; plastic bags for transmitting medical specimens; medical bags sold empty; paper bags and envelopes for sterilizing medical instruments; sterilization trays and containers; silicone mats for sterilization trays; containers specifically adapted for the transport of medical waste; guards, trays and covers specifically adapted for medical instruments; sterile procedure kits composed of pouches and tubing for use in steam/gas sterilization; sterilization monitoring products for use in monitoring sterility of medical instruments; sterilization wrap for medical instruments; reusable medical electrodes; medical furniture, namely, overbed tables and footstools; supports for general medical use; canes for medical purposes; crutches; invalid walkers and lifts; patient examination and/or treatment tables; medical patient treatment chairs; medical chart holders; medical carts and accessories, namely, cups dispensers, magnetic flex lights, bin labels, medication cart cassettes; urine collector and specimen containers for medical~~

~~use; I.V. stands for medical use; protective drapes for operating room and medical treatment and apparel for medical use; catheter trays; irrigation trays for medical use; dressing change trays for medical use; medical kits comprising combinations of medical instruments, namely, forceps, hemostats, curettes, speculae, clamps, scalpels, specimen tubes, and wound dressings; patient prep materials, namely, medical gloves, cotton-tipped applicators for medical use, wash basins for medical use, urinals for medical purposes, bedpans, medicine cups, medical specimen collectors, denture containers, and orthodontic pacifiers; medical hosiery, namely, elastic hose supporters, knee high hose and thigh high hose; elastic bandages and wraps; abdominal pads; padding for orthopedic casts; incontinence sheets and underpads used for bedding; disposable armboards; Hospital and surgical instruments, namely, syringes and needles; surgical scalpels and blades; suction absorbent cotton balls and sponges; stomach tubes; catheters and catheter trays; emesis basins and covers; latex bulbs; finger splints; nipple caps; plastic bandages; pelvic traction belts; clavicle straps and pads; enema kits comprising enema apparatus and enema preparations; respiratory equipment for infants; gauze packing strips; gauze tubing; cloth medical dressing; bed equipment for surgery; rubber bags for use in connection with respiratory equipment; blood pressure measuring equipment; sterilizers; sanitary urinals; stitch pincers; surgical scissors; blood lancets; suture removal kits; specimen containers; splints; intravenous arm boards; blood collectors; oral and rectal thermometers; percussion hammers for medical use; irrigation trays; stopcocks; medicine droppers; observation tube glass; surgical instruments; needles and stylets; drainage bags; crutch tips; porous tapes; swabs; pan covers; face masks; surgical gloves; wrist restraints; surgical gowns and garments; bath safety products adapted for use by the physically disabled, namely, shower chair, shower stools, toilet safety frames, toilet safety rails, transfer benches, raised toilet seats, shower rails and grab bars, beside commodes; medical wearing apparel, namely, scrub shirts and medical gowns; hospital garments for hospital personnel and patients, namely, uniforms, coats, lab coats, jackets, shirts, pants, pajamas, robes, slippers, leggings, vests, all for use in surgical or medical purposes~~

To:

Shaving preparation sets comprised essentially of disposable razor and shaving cream; bath guards for physical therapy and rehabilitation purposes; glucose monitoring systems comprising meter, case, test strips, control solutions, and lancing devices; ophthalmoscopes; otoscopes; disposable pen lights for medical use; stethoscopes; hand protectors to prevent tube removal or tampering; stretchers and belts therefor; plastic bags for transmitting medical specimens; medical furniture, namely, overbed tables and footstools; supports for general medical use; canes for medical purposes; crutches; invalid walkers and lifts; patient examination and/or treatment tables; medical

patient treatment chairs; medical chart holders; medical carts and accessories, namely, cups dispensers, magnetic flex lights, bin labels, medication cart cassettes; protective drapes for operating room and medical treatment and apparel for medical use; patient prep materials, namely, medical gloves, cotton-tipped applicators for medical use, wash basins for medical use, urinals for medical purposes, bedpans, medicine cups, medical specimen collectors, denture containers, and orthodontic pacifiers; medical hosiery, namely, elastic hose supporters, knee high hose and thigh high hose; elastic bandages and wraps; abdominal pads; padding for orthopedic casts; incontinence sheets and underpads used for bedding; absorbent cotton balls and sponges; finger splints; plastic bandages; pelvic traction belts; clavicle straps and pads; blood pressure measuring equipment; splints; percussion hammers for medical use; crutch tips; pan covers; face masks; surgical gloves; wrist restraints; surgical gowns and garments; bath safety products adapted for use by the physically disabled, namely, shower chair, shower stools, toilet safety frames, toilet safety rails, transfer benches, raised toilet seats, shower rails and grab bars, beside commodes; medical wearing apparel, namely, scrub shirts and medical gowns; hospital garments for hospital personnel and patients, namely, uniforms, coats, lab coats, jackets, shirts, pants, pajamas, robes, slippers, leggings, vests, all for use in surgical or medical purposes.

Upon consideration of the proposed amendments to the goods in International Classes 5 and 10, the Board finds that the amendments are clearly limiting in nature, as required by Trademark Rule 2.71(a). Because Opposer consents thereto, the amendments are approved and entered. *See* Trademark Rule 2.133(a).

If entry of the amendments resolves the dispute between the parties, Opposer is allowed until thirty (30) days from the mailing date of this order to file a withdrawal of the opposition, failing which the Board will resume proceedings and the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c).

Proceedings are otherwise suspended pending a response from Opposer.