

ESTTA Tracking number: **ESTTA735377**

Filing date: **03/23/2016**

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

Proceeding	91225007
Party	Defendant Delves, Neil, Giufre, Kevin
Correspondence Address	MATTHEW H SWYERS 344 MAPLE AVE W # 151 VIENNA, VA 22180-5612 mswyers@thetrademarkcompany.com
Submission	Motion to Amend Application
Filer's Name	Matthew H. Swyers, Esq.
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Signature	/Matthew H. Swyers/
Date	03/23/2016
Attachments	Motion to Amend.pdf(181765 bytes)

Current: NEVERWET BASEMENT WATERPROOFING (Design, see mark attached).

The literal element of the mark consists of NEVERWET BASEMENT WATERPROOFING.

The mark consists of the word "NEVERWET" above "BASEMENT WATERPROOFING". "NEVERWET" is in all-caps and outlined in a thick, black line with a white fill for "NEVER" and a light blue fill for "WET" with a black-lined red strike-out line crossing from the top left of "WET" down to the bottom right. Above "WET" is a stylized roof with a thick black outline, a chimney outline on the right and a white fill. "BASEMENT WATERPROOFING" is in a smaller, red text with a capital "B".

Proposed: NEVER WET BASEMENT WATERPROOFING (Please find special form drawing attached).

The literal element of the mark consists of NEVER WET BASEMENT WATERPROOFING.

The color(s) black, red, white, and light blue is/are claimed as a feature of the mark. The mark consists of the words "NEVER WET" above "BASEMENT WATERPROOFING". "NEVER WET" is in all-caps and outlined in a thick, black line with a white fill for "NEVER" and a light blue fill for "WET" with a black-lined red strike-out line crossing from the top left of "WET" down to the bottom right. Above "WET" is a stylized roof with a thick black outline, a chimney outline on the right and a white fill. "BASEMENT WATERPROOFING" is in a smaller, red text with a capital "B".

The Applicants' proposed amendments to U.S. Application Serial No. 86/376,134, as seen herein above, to restrict the identification of goods and services and to amend Applicants' description of the mark is proper according to 37 C.F.R. § 2.71 and 37 C.F.R. § 2.72 as it merely limits those goods and services found in the original identification and it does not materially alter the mark. In view of the foregoing, approval of the amendment by the Board pursuant to 37 C.F.R. § 2.133(a) is believed appropriate. Opposer, NeverWet LLC has provided its consent to the instant amendments to Applicants' Mark as evidenced by Counsel for Opposer's signature below.

Respectfully submitted this 23rd day of March, 2016.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

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SEEN AND CONSENTED TO BY:

/Grace Han Stanton/

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Counsel for Opposer

Date: March 23, 2016

Original Mark:



Proposed Mark:



