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

Mailed: April 21, 2016

Opposition No. 91226624

Festina Lotus, S.A.

v.

Lotos Goldbrillen GmbH

Robert H. Coggins,
Interlocutory Attorney:

On April 11, 2016, Applicant filed a consented motion to amend subject application Serial No. 86149818; and, on April 19, 2016, Applicant filed a stipulated motion to amend the subject application and contingently withdraw the opposition.[1] The Board presumes that the second motion supersedes the first. In view thereof, the April 11th motion will be given no consideration.

April 19th Motion to Amend

By the stipulated motion, Applicant seeks to delete the wording "horological and chronometric instruments" from the identification of goods and services in Classes 14 and 35.

[1] The filing fails to indicate proof of service of a copy of same upon Opposer as required by Trademark Rule 2.119. In order to expedite this matter, Opposer is directed to the following URL where it may view a copy of the filing: http://ttabvueint.uspto.gov/ttabvue/v?pno=91226624&pty=OPP&eno=6

Class 14

Applicant provided a proposed identification for Class 14 which does not fully comport with Applicant's direction to merely delete the wording "horological and chronometric instruments." Specifically, Class 14 currently identifies some goods based on Section 44(e), and certain other goods based on Section 1(b). The proposed identification as presented in the stipulated motion does not recite any goods based on Section 44(e); however, the motion makes no reference to deleting the Section 44(e) goods. In view thereof, the motion is unclear and the amendment to Class 14 cannot be effected. Accordingly, the motion to amend is **denied** without prejudice as to Class 14. In addition, it appears that there is a typographical error in the proposed amendment. The introductory wording "...and coated therewith..." does not make sense. Applicant should consider adding the word "goods" thereto, so the introductory wording will read as "...and *goods* coated therewith...."

Class 35

Applicant presents an amended identification of services for Class 35 as follows:

> (Based on Intent to Use) Mail order, retail store, wholesale store services, online retail store services, and online wholesale store services in the field of photographic apparatus and instruments, cinematographic apparatus and instruments, optical apparatus and instruments, spectacle glasses, frames for eye glasses, sun glasses, lenses for spectacles, eye glasses and sun glasses, contact lenses, spectacles and containers for contact lenses, precious metals and their alloys and goods in precious metals or coated therewith, jewellery, bijouterie, precious stones, leather and imitations of leather, animal skins, hides, trunks, travelling bags, umbrellas, parasols, walking sticks, and saddlery; retail jewelry store services; The bringing together, for the benefit of others, of a variety of goods excluding the transport thereof, enabling customers to conveniently view and

> purchase those goods in the field of eyewear, jewelry, handbags, animal skins and hides, luggage.

Although Applicant failed to identify its basis for these services, it is presumed that the Class 35 identification remains under an intent-to-use. The Board has *sua sponte* amended the word "saddler" to "saddlery." *See* Trademark Style Guidelines § 1.07 (Feb. 2013) (obvious spelling errors may be corrected without prior approval).

Inasmuch as the amendment to Class 35 is limiting in nature as required by Trademark Rule 2.71(a), and Opposer consents thereto, the motion is **granted** as to Class 35. *See* Trademark Rule 2.133(a).

Suspension

Proceedings are **suspended** to allow Applicant to file (and serve) an amended motion that clearly and precisely identifies the amendment to Class 14. If no amendment is filed within **fifteen days**, the opposition will go forward on the application as amended herein. *See* Trademark Rule 2.106(c).