

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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RK/jmw

March 22, 2019

Opposition No. **91241270**

Christos Acquisition, LLC

v.

Christos Dovas New York Corp.

Yong Oh (Richard) Kim, Interlocutory Attorney:

On February 13, 2019, Applicant filed a proposed amendment to its **Application Serial No. 87712324**.¹ On February 14, 2019, Applicant filed notice of Opposer's consent to the amendment.²

By the proposed amendment, Applicant seeks to amend the identification of services in International Class 35 as follows (amendment in bold type):

From: Retail stores featuring clothing, evening wear, bridal wear and accessories, fashion accessories, handbags, hats, boleros, shoes, jewelry, cosmetics; Wholesale store services featuring clothing, evening wear, bridal wear and accessories, fashion accessories, handbags, hats, boleros, shoes, jewelry, cosmetics; in International Class 35.

To: Retail stores featuring clothing, evening wear, **bespoke, custom made** bridal wear and accessories, fashion accessories, handbags, hats, boleros, shoes, jewelry, cosmetics; Wholesale store services featuring clothing, evening wear, **bespoke, custom made** bridal

¹ 8 TTABVUE.

² 7 TTABVUE.

wear and accessories, fashion accessories, handbags, hats, boleros, shoes, jewelry, cosmetics; in International Class 35.

A proposed amendment to any application or registration which is the subject of an *inter partes* proceeding must also comply with all other applicable rules and statutory provisions, including Trademark Rules 2.71-2.75. *See* TBMP §§ 514.01 and 605.03(b). In particular, while an applicant may amend to clarify or limit the identification, adding to or broadening the scope of the identification is not permitted. *See* Trademark Rule 2.71(a); TMEP §§1402.06 *et seq.*, 1402.07.

Here, the proposed amendment is unacceptable because it is unclear whether the term “bespoke” is intended to modify “bridal wear and accessories” or is intended to define a separate category of goods due to the term being set off by a comma among a list of goods that are similarly separated by commas and also due to the redundancy of the term with the description “custom made”.³ In view of the resulting indefiniteness, Applicant’s motion to amend is **DENIED**.

Inasmuch as the parties appear to be interested in settling the case, proceedings herein are **SUSPENDED** until **APRIL 22, 2019**, to allow the parties time to renegotiate any settlement agreement and to submit, if possible, an acceptable amendment to the recitation of services in the involved application.⁴ Should the parties be unable to reach an agreement by the end of the suspension period,

³ “Bespoke” is defined as “custom-made”. *Merriam-Webster Online Dictionary* (2019). The Board may take judicial notice of dictionary definitions. *See Univ. of Notre Dame du Lac v. J. C. Gourmet Food Imps. Co.*, 213 USPQ 594 (TTAB 1982), *aff’d*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

⁴ Any newly proposed amendment should be accompanied by a red-lined copy of the amendment clearly showing the proposed changes followed by a clean copy of the proposed amendment. *Cf.* Trademark Rule 2.74(a).

proceedings will resume on **APRIL 23, 2019**, and the opposition will go forward on the application as published in accordance with the following schedule:

Discovery Closes	4/24/2019
Plaintiff's Pretrial Disclosures Due	6/8/2019
Plaintiff's 30-day Trial Period Ends	7/23/2019
Defendant's Pretrial Disclosures Due	8/7/2019
Defendant's 30-day Trial Period Ends	9/21/2019
Plaintiff's Rebuttal Disclosures Due	10/6/2019
Plaintiff's 15-day Rebuttal Period Ends	11/5/2019
Plaintiff's Opening Brief Due	1/4/2020
Defendant's Brief Due	2/3/2020
Plaintiff's Reply Brief Due	2/18/2020
Request for Oral Hearing (optional) Due	2/28/2020

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence.

Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

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