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

Proceeding	91242454
Party	Defendant Mavis Tire Supply LLC
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Submission	Motion to Amend Application
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Date	04/15/2019
Attachments	Motion to Amend Applications.pdf(166400 bytes)

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

In the Matter of Application Serial Nos. 87/570,980 and 87/585,780
For the Marks: MAVIS DISCOUNT TIRE & Stacked Tire Design
MAVIS DISCOUNT TIRE (Stylized)
Published in the *Official Gazette* on March 20, 2018
Opposition Filed on July 17, 2018

The Reinalt-Thomas Corporation,

Opposer,

v.

Mavis Tire Supply LLC,

Applicant.

Opposition No. 91242454

APPLICANT'S MOTION TO AMEND APPLICATIONS

Pursuant to 37 C.F.R. § 2.133 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 514, applicant Mavis Tire Supply LLC ("Mavis") hereby moves to amend the dates of first use in the applications that are the subject of Opposition No. 91242454, namely MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) and MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780).

As described in the attached Declaration of David Sorbaro, Mavis inadvertently used incorrect dates of first use in the applications for Ser. Nos. 87/570,980 and 87/570,780. The application for MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) lists a first use date of June 15, 1973 and a first use in commerce date of June 30, 1973. The application for MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) lists a first use date, and first use in commerce date, of June 15, 1973.

The correct information is as follows: Mavis started using the mark MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) with respect to “*On-line retail store services featuring tires, automobile parts and accessories; Retail tire, automobile parts and accessory stores*” in 1993 and started using the mark MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) with respect to “*Retail tire, automobile parts and accessory stores; On-line retail store services featuring tire, automobile parts and accessories*” in 2009.

Mavis realized this unintentional error as a result of the instant opposition and now wishes to amend the dates of first use in the applications accordingly.

Mavis was using both marks at the time the use-based application for each mark was filed—August 16, 2017 (the filing date for Ser. No. 87/570,980) and August 28, 2017 (the filing date for Ser. No. 87/570,780).

Mavis thus respectfully requests that the date of first use anywhere and the date of first use in commerce for the mark MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) be amended to 1993 and that the date of first use anywhere and the date of first use in commerce for the mark MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) be amended to 2009.

Respectfully submitted,

Mavis Tire Supply LLC

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April 15, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2019, the foregoing Motion to Amend

Applications was served on counsel for the Opposer, via email, at the following addresses:

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DECLARATION OF DAVID SORBARO

I, David Sorbaro, submit this declaration pursuant to 28 U.S.C. § 1746.

1. I am Co-Chief Executive Officer of Mavis Tire Supply LLC (“Mavis”).

2. In June 2017, I instructed Mavis’s outside trademark attorney, Charles Baxley, to file use-based applications for the marks MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) for “*On-line retail store services featuring tires, automobile parts and accessories; Retail tire, automobile parts and accessory stores*” and MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) for “*Retail tire, automobile parts and accessory stores; On-line retail store services featuring tire, automobile parts and accessories.*”

3. It is my understanding that Mr. Baxley filed the application for MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) on August 16, 2017 and the application for MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) on August 28, 2017.

4. I have since realized that these applications included incorrect dates of first use. This mistake was inadvertent and unintentional.

5. Although both applications identified dates of first use in 1973, Mavis started using the mark MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) on its retail stores in 1993, and Mavis started using the MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) on its retail stores in 2009.

6. Mavis started using each mark long before the application for such mark was filed and Mavis was using each mark at the time the application for such mark was filed in August

2017. Accordingly, Mavis wishes to amend the dates of first use and first use in commerce in the applications to reflect the actual first use dates for each mark as described above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on April 15, 2019 in Millwood, New York.



David Sorbaro