

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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July 23, 2019

Opposition No. 91244806

Publicis Media Limited

v.

Martell Broadcasting Systems, Inc.

J. Krisp, Interlocutory Attorney:

On July 15, 2019, Applicant filed a proposed amendment to its application Serial No. 87716741, with Opposer's consent.¹

By the proposed amendment, Applicant seeks delete International Class 35 in its entirety, and to amend the recitation of services in International Class 42.²

International Class 35

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, the request for

¹ The submission filed by counsel for Applicant does not indicate proof of service of a copy of same on counsel for Opposer, as required by Trademark Rule 2.119. All future submissions must include proof of service. TBMP § 113 (2019). The Board may decline to consider any non-compliant submission.

Applicant's answer and change of correspondence address, both filed on January 25, 2019, are noted. The record has been updated to reflect the correspondence information provided in Applicant's change of correspondence address.

² The goods in International Class 9 and the services in International Classes 38 and 41 are to remain unchanged.

amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135.

Trademark Rule 2.135 provides that if, in an *inter partes* proceeding, the applicant files an abandonment without the **written** consent of every adverse party to the proceeding, judgment shall be entered against the applicant.

Opposer's written consent to the abandonment is not of record. Applicant is allowed until **thirty days from the date of this order** to submit Opposer's written consent to the abandonment, failing which, judgment will be entered against Applicant with respect to International Class 35.

International Class 42

Applicant seeks to amend the recitation of services in International Class 42 as follows (the proposed deletion is shown in strikethrough):

From: Providing temporary use of online non-downloadable software for streaming audio and video content on mobile phones, tablets, personal computers, and televisions; cloud storage services, namely, providing electronic data storage accessible via the internet of electronic media, namely, music, video, and audiovisual content; ~~providing temporary use of on-line non-downloadable software for analyzing media data, compiling email lists, selling advertising inventory, and communicating with users~~

To: Providing temporary use of online non-downloadable software for streaming audio and video content on mobile phones, tablets, personal computers, and televisions; cloud storage services, namely, providing electronic data storage accessible via the internet of electronic media, namely, music, video, and audiovisual content.

The amendment is limiting in nature, as required by Trademark Rule 2.71(a). Because Opposer consents thereto, the amendment in International Class 42 is approved and entered. *See* Trademark Rule 2.133(a).

If the amendment resolves this proceeding, Opposer is allowed until **thirty days from the date of this order** to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c). If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings are otherwise **suspended**.