

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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JC

November 19, 2019

Opposition No. 91246567

*Dynamite Wholesale, LLC*

*v.*

*Phantom I.P., LLC*

**Geoffrey M. McNutt, Interlocutory Attorney:**

On October 31, 2019, Applicant filed a proposed amendment to its application Serial No. 88049710, with Opposer's consent.<sup>1</sup>

By the proposed amendment, Applicant seeks to amend the identification of goods in Class 13 as follows (proposed amendment shown in bold font):

To:

**Fireworks, namely, fireworks limited to  
helicopters/aerial spinners**

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<sup>1</sup> The precise wording of the motion is that Opposer "is not opposed to this motion." See 12 TTABVUE 2, ¶ 5. In the motion, however, Applicant also states that the proposed amendment of the involved application is intended "to effectuate the terms" of the parties "amicable resolution" of this opposition by which the parties can "co-exist." *Id.*, ¶¶ 3-4. The Board construes Applicant's statements in its motion to amend as indicating that Opposer consents to the motion pursuant to Trademark Rule 2.133(a).

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Because the amendment is limiting in nature, as required by Trademark Rule 2.71(a), and because Opposer consents to its entry, the amendment is approved and entered. *See* Trademark Rule 2.133(a).

If the amendment resolves this proceeding, Opposer is allowed **THIRTY DAYS** 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 otherwise are **suspended**.