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

Proceeding	91246966
Party	Defendant Jacques Webster
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Submission	Other Motions/Papers
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Date	04/22/2019
Attachments	S.P.A.C.E Motion to Divide.pdf(62556 bytes)

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

Dominick Russell,)	Opposition No. 91246966
)	
Opposer,)	
)	Application Serial No. 88/096,363
v.)	Mark: S.P.A.C.E
)	
Jacques Webster,)	
)	
Applicant.)	
<hr/>)

MOTION TO DIVIDE APPLICATION

Jacques Webster (“**Applicant**”), by his undersigned attorneys, hereby respectfully requests for the reasons specified in Applicant’s accompanying Memorandum that Applicant’s **S.P.A.C.E** mark be divided into two applications as follows:

Child application seeking to register the mark in one (1) class, namely, International Class 018 for “*Bags; backpacks; umbrellas; carrying cases; canes; purses and wallets; dog apparel; luggage*”;

Parent application seeking to register the mark in one (1) class, namely International Class 025 for “*Clothing, namely, t-shirts, shirts, long-sleeved shirts, polo shirts, hooded shirts, sweatshirts, hooded sweatshirts, jerseys, shorts, sweat pants, jackets, scarves, pajamas, robes, boxer shorts, boxer briefs, underwear, head bands, wrist bands as clothing, swimsuits, skirts, dresses, bras, cardigans, blouses, tank tops, pants, coats, sweaters, leg warmers, socks, belts; footwear, namely, shoes, athletic shoes, slippers, boots, sandals; headwear, namely, hats, visors, beanies and caps*”.

As set forth in Applicant’s accompanying Memorandum, the present motion should be granted because, *inter alia*, Opposer’s Notice of Opposition does not include any allegations in Opposition to Applicant’s use and registration of his mark in International Class 018, and Opposer has failed to submit the requisite fee to oppose such

International Class. The requested division of International Class 018 from this Opposition will streamline the present proceedings and enable Applicant's mark to proceed to registration in unopposed International Class 018.

Accompanying this motion is the requisite fee for Applicant's request.

Respectfully Submitted,

Dated: April 22, 2019

By: /Kia Kamran/

Kia Kamran, Esq.

Kia Kamran P.C.

Attorney for Applicant

1900 Avenue of the Stars, 25th Floor

Los Angeles, CA 90067-4301

(310) 284-8600

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **MOTION TO DIVIDE APPLICATION** has been served on Opposer's counsel via email on April 22, 2019, to:

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Dominick Russell,)	Opposition No. 91246966
)	
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)	Application Serial No. 88/096,363
v.)	Mark: S.P.A.C.E
)	
Jacques Webster,)	
)	
Applicant.)	
_____)	

**MEMORANDUM IN SUPPORT OF APPLICANT'S
MOTION TO DIVIDE APPLICATION**

As provided in 37 C.F.R. Section 2.87, “[a]n application may be divided into two or more separate applications upon the payment of a fee.” With respect to mark applications that are subject to an opposition, a divisional request is permissible “upon motion granted by the Trademark Trial and Appeal Board.” See *id.* part (c)(1). Accordingly, if an application that is the subject of an opposition includes multiple classes, not all of which have been opposed, the applicant may file a motion to divide out the unopposed classes. See TMBP § 516.

Applicant respectfully moves to divide out International Class 018 in its entirety from the remainder of its Application No. 88/096,363, the remaining classes of which are subject to this present Opposition. Applicant’s motion should be granted because, *inter alia*, Opposer’s Notice of Opposition does not include any allegations in opposition to Applicant’s use and registration of the Mark in International Class 018, and Opposer has failed to submit the requisite fee to oppose such International Class. The requested division of International Class 018 from this Opposition will streamline the present proceedings and enable Applicant’s mark to proceed to registration in unopposed International Class 018.

Applicant respectfully requests that his Application be divided in accordance with his Motion to Divide Application. Accompanying this motion is the requisite fee for Applicant's request.

Respectfully Submitted,

Dated: April 22, 2019

By: /Kia Kamran/

Kia Kamran, Esq.

Kia Kamran P.C.

Attorney for Applicant

1900 Avenue of the Stars, 25th Floor

Los Angeles, CA 90067-4301

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