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

Proceeding	91249533
Party	Defendant Eintracht Frankfurt e.V.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NEVER SUMMER INDUSTRIES, INC.,

Opposition No. 91249533

Opposer,

-against-

EINTRACHT FRANKFURT E.V.,

Applicant.

**MOTION ON CONSENT TO AMEND APPLICATION, SUSPEND
AND, IF AMENDMENT ACCEPTED, TO WITHDRAW OPPOSITION**

Opposer Never Summer Industries, Inc. (“Opposer”) and Applicant Eintracht Frankfurt e.V. (“Applicant”) hereby move to (a) amend the description of goods and services of the mark contained in Application Serial No. 79/215,008 (the “Application”), (b) to suspend the opposition pending the Board’s review of the amendment to the Application, and (c) to dismiss the opposition without prejudice conditioned upon acceptance of the amendment to the Application.

For its amendment, Applicant proposes, with Opposer’s consent, to remove the language below as stricken and add the language in bold underlined text as follows:

IC 005 - Pharmaceutical and veterinary preparations, namely, pharmaceutical preparations for humans for treating musculo-skeletal disorders, pharmaceutical preparations for human skin care, veterinary preparations for pain relief; hygienic preparations and articles, namely, disinfectants for hygiene purposes, medicated soap; medical preparations, namely, bath preparations for medical use; dietary supplements and dietetic preparations in the nature of dietetic foods adapted for medical use; dietetic foodstuffs and beverages adapted for medical or veterinary purposes; infant formula; medical plasters for use as materials for dressings, adhesive plasters for medical use, bandages for dressings; material for stopping teeth, namely, dental wax; disinfectants; preparations for destroying vermin; fungicides; herbicides; medicated isotonic drinks for medical use

IC 009 - Apparatus, instruments and equipment for telecommunications, namely, telephones, network routers, modems, computers, mobile phones, televisions, radios, fax devices, printer; optical image viewers, namely, optical encoder, optical scanner, optical transmitter, optical disc player with three-dimensional graphic representation; apparatus for receiving, recording, transmission, processing, transforming, output and reproduction of data, speech, text, signals, sound and images, including multimedia apparatus, namely, remote-photography apparatus, video telephones, compact disc players, television apparatus, cameras, cassette players, loudspeakers, cabinets for loudspeakers, luminous video screens, luminous projections screens, electronic entertainment goods, namely, radio and television receivers, sound and/or image recording and reproduction apparatus, including such goods in portable form and for digital image-sound signals; electronic apparatus for interactive television, namely, television sets; decoding apparatus for receiving and transforming encoded signals; apparatus, including multimedia apparatus, for connecting and controlling audio, video and telecommunications apparatus, including such apparatus with electronic program management and control for interactive television viewing and/or pay TV, namely, video and television decoder, television monitors, television and video converters; computers and printers; software for electronic program guides; accessories for computers, video and computer games and similar electronic and electrotechnical apparatus, namely, adapters, modules for expanding functions and extending memory capacity; voice synthesizers, light pens, electronic 3-D spectacles, programmed cassettes, floppy discs, discs, all featuring music and ~~sports~~ **soccer**, namely, soccer, ~~sporting~~ events, ~~sporting~~ **soccer** history, instruction in the field of ~~sports~~ **soccer**; non-programmed blank cassettes, floppy discs, discs; boxes specifically adapted for storing cassettes, floppy disks and recording discs; program recorders, namely, video recorders; numerical keyboards, floppy disk stations principally comprising floppy disk drives, microprocessors and control electronics; electronic data processing apparatus, including monitors, input apparatus, output apparatus, printers, terminals and memories, including such apparatus being additional apparatus for a main piece of apparatus; computer programs for recording television, radio, mobile and online programs for later viewing recorded on data carriers of all kinds; electronic data carriers, namely, optical discs featuring video games and computer games **in the field of soccer** in the form of computer programs recorded on data carriers; software featuring video games and computer games **in the field of soccer** in the form of computer programs recorded on data carriers; computer and video games **in the field of soccer on** cassettes, floppy disks, disks and tapes; computer programs **in the field of soccer** recorded on machine-readable data carriers, included in this class featuring music and sports **in the field of soccer**, ~~especially soccer, sporting~~ **soccer** events, ~~sporting~~ **soccer** history, instruction in the field of ~~sports~~ **soccer**; pre-recorded sound recording carriers, namely, recording discs, compact discs, sound tapes and sound cassettes featuring ~~music and sports~~ **soccer**, ~~especially soccer, sporting~~ **soccer** events, ~~sporting~~ **soccer** history, instruction in the field of ~~sports~~ **soccer**; blank sound recording carriers, namely, recording discs, compact discs, sound tapes and sound cassettes; recordable, blank image carriers, namely, video cassettes and DVDs; recorded image carriers, namely, video cassettes and DVDs featuring ~~music and sports, especially soccer, sporting~~ **soccer** events, ~~sporting~~ **soccer** history, instruction in the field of ~~sports~~ **soccer**; video cassette cases; exposed photographic film, exposed camera films and exposed slide films; compact discs featuring photos of ~~sports especially of soccer, sporting~~ **soccer** events; electronic agendas, pocket calculators, electronic

diaries; pre-recorded magnetic, magnetic optical and optical carriers for sound and/or images featuring ~~music and sports, especially~~ soccer, ~~sporting~~ **soccer** events, ~~sporting~~ **soccer** history, instruction in the field of ~~sports~~ **soccer**; encoded cards for use as electronic tickets and consumption cards for use in financial transactions for use in ~~football/soccer~~ stadiums; encoded magnetic cards with store value, namely, gift cards and cards for making purchases at retail stores **featuring soccer related products**; ~~optical apparatus and instruments, namely, spectacles, glasses and spectacle frames; sunglasses; spectacle cases;~~ cell phones; tablet computers; software applications for mobile telephones and tablet computers for enabling the transmission of **soccer** photographs, ~~sport~~ **soccer** videos and ~~sport~~ **soccer** information to mobile phones and tablet computers; cases and covers for mobile telephones and computer tablets; mouse mats and pads; mechanical or digital egg timers; horns for signaling for use with bicycles; ~~safety floats for swimming, safety swimming belts, safety swimming jackets;~~ replacement parts included in this class for all the aforesaid goods

IC 011 - Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, namely, lighting installations, lamps; LED luminaires, ceiling lights; electric Christmas tree lights; bicycle lights; light bulbs; ~~lanterns for lighting, electric pocket torches for lighting;~~ water heaters; heating installations, namely, heating boilers, ~~barbecues and cooking ovens;~~ clothes dryers; heating, cooking and refrigerating apparatus, namely, electric hair driers, ice machines, ~~ice chests;~~ electric heaters for baby bottles, beverage cooling apparatus, electric coffee percolators, electric toasters; ventilating installations, namely, ventilating fans for commercial and household use; sanitary installations, namely, water heaters, toilets, sinks, lavatories; lighting, namely, lighting apparatus for sports arenas; light reflectors; electric lamps; ~~pocket searchlights; luminaires;~~ hot water bags

IC 014 - Jewellery, precious stones; key rings being trinkets or fobs; horological and chronometric instruments; pins being jewellery; key rings, key chains; jewellery boxes and watch boxes; badges of precious metal; decorative charms for cellular phones in precious metals; pendants for watch chains; identification bracelets being jewellery; paste jewellery being costume jewelry; tie pins; cuff links; medals; collectible coins; alarm clocks, tie clips

IC 015 - Musical instruments; musical boxes, not toys; musical instruments, namely, whistles; musical instruments, namely, horns for use in ~~football~~ **soccer** stadia being musical instruments

IC 016 - Printed matter **in the field of soccer**, namely, periodicals, books, magazines, newsletters, journals, yearbooks, informational flyers, autograph cards, art prints, handbooks and manuals, ~~in the field of soccer, sports, travel, education, entertainment;~~ newspapers; printed periodicals in the field of soccer, ~~sports, travel, education, entertainment;~~ photographs **in the field of soccer**, ~~printed;~~ posters, postcards, stationery, ball pens, pencils **featuring soccer related indicia and artwork**; flags and pennants of paper; paper banners and flags; rub down transfers; scrapbooks, advent calendars; stickers being stationery **in the field of soccer**; storage containers made of paper or cardboard; autograph books; paper place mats for beer glasses; table napkins of paper;

writing tablets; stickers being items of stationery **in the field of soccer**; gift wrap paper; writing pads being stationery; event programmes **in the field of soccer**, press folders **in the field of soccer** being writing accessories, posters **in the field of soccer**; note books, memo boards, address books; envelopes for cards; printed tickets, entry tickets, participant tickets, printed invitation cards, calendars, postcards and greeting cards **all in the field of soccer**; iron-on transfers of paper; packaging bags of paper or plastic; photographs **in the field of soccer**; artists' materials, namely, color pencils, modelling clay, easels and paint brushes; printed instructional and teaching material in the field of sports **soccer**, travel, and entertainment **for soccer related events**; plastic films for packaging; art prints **in the field of soccer**; leather pencil cases

IC 018 – Bags **in the field of soccer**, namely, waist bags, shoulder bags, school bags, sports bags, leisure bags, namely, beach bags, reusable shopping bags, textile shopping bags, training bags, namely, gym bags, sports bags and traveling bags; backpacks; wash bags sold empty for carrying toiletries; purses; wallets; animal skins, hides; hipsacks; whips, harness and saddlery; trunks and travelling bags; umbrellas; ~~hiking and walking sticks~~; credit-card holders; holders in the nature of cases for keys, **all of the foregoing excluding any snow sport related bags**

IC 021 - ~~Household or kitchen utensils, namely, kitchen tongs, strainers, spatulas, turners, beer pitchers and containers; combs and sponges for household purposes, namely, cleaning sponges; cosmetic, dusting, golf, hair, and lint brushes; brushes for footwear; brush-making materials; articles for cleaning purposes, namely, cleaning cloths, mops, brooms, and rags; steelwool; glassware, porcelain and earthenware, namely, cups, mugs, drinking glasses, beverage glassware, dishes, ornaments, coin banks and flower pots; beer glasses, beer jugs and beer mugs; mugs and plates of porcelain, plastic, cardboard and of enameled metal; bottle openers, electric and non-electric; statues, figurines, plaques and works of art, made of porcelain, ceramics, earthenware or glass; tableware, cookware and containers, namely, household and kitchen containers, not of metal, cutting boards for the kitchen, bread bins, bread baskets for household purposes, soap boxes, sugar bowls, ice buckets, ice cube molds, glass bowls, coffee pots, non-electric and not of metal, cooking pots, tie presses, cans, namely, watering cans, garbage cans and bowls, not of metal, disposable table plates, not of metal, plastic water bottles sold empty, egg cups, not of precious metal, butter dishes, coffee services, not of precious metal, candlesticks, not of precious metal, refrigerating bottles, sold empty and portable cool boxes, non electric for household use, refrigerating containers, namely, thermal insulated containers for food or beverages; cups and plates made of paper or cardboard; piggy banks; lunch boxes; garden ornaments, namely, gnomes of porcelain, earthenware or glass~~

IC 024 - Textiles and textile goods, namely, bed blankets, sheets, shams, throws and pillow cases, ~~shower curtains of textile, tablecloth of textile, curtains of textile, handkerchiefs of textile~~; bed and plastic table covers, textile table covers; bed linen and table linen, not of paper; hand towels and bath towels of textile; plastic pennants, banners and flags, textile pennants, banners and flags; labels of textile

IC 025 – Clothing **in the field of soccer**, namely, shorts, shirts, pants, jackets, trousers, coats, pullovers, raincoats, ~~aprons~~, sweatshirts, t-shirts, ~~waistcoats, sweater vests, hosiery~~

~~and sleepwear, slippers, overalls, pajamas, raincoats, skirts, nighties, dresses, suspenders, overalls, vests, suits, sweat suits, polo shirts, jerseys, gloves, socks; sportswear and leisurewear, namely, soccer jerseys, soccer shorts, bath sandals, bathing shoes, golf trousers, golf pants, golf shirts, swimming costumes, gymnastic shoes, sports jerseys, and breeches for sports, beachwear, beach shoes, training suits, nightdresses, sports uniforms; exercise suits comprising track suits; gym shorts and shirts, football **soccer** shorts and shirts, tennis shirts and shorts, bathing suits and beachwear, swimming trunks and swimsuits, including bikinis; underclothing, namely, corsets, underwear; children's clothing **in the field of soccer**, namely, shorts, t-shirts, sports uniforms, sweatshirts; clothes for newborn babies, namely, one-piece play suits, shirts, shorts, pants, jackets, sweatshirts, dresses, rompers; clothing, namely, playsuits; shoes, footwear and boots including shoes and boots for sports and leisure;; headgear, namely, headbands and sweatbands; gloves for cross-country skiing and cycling; neck scarfs, mufflers , **all of the foregoing excluding any snow sport related clothing**~~

IC 028 - Games and playthings, namely, board games, plaything cards, action figures, video games consoles, plush toys, cups for dice, baby rattles, toy building blocks, dominoes, parlor games, toy mobiles, stuffed toys, toy scooters, darts, flying discs, archery targets, dice, toys for domestic pets, toy cars; jigsaw and manipulative puzzles; masks for disguise for games, hobby and model kits with activity materials for games; toy figurines of plastic, wood, rubber, porcelain and other materials; toy cars and lorries; coin and/or token operated automatic gaming machines; inflatable swimming pools as playthings and swimming toys, namely, swimming floats, swimming kick boards, swimming rings, playground slides, soft and rag dolls and toy animals, and toy figurines of fabric, fur and other materials; dolls and doll clothing; inflatable balloons; gymnastic and sporting articles **in the field of soccer**, namely, soccer goals, soccer ball knee pads, sports field training grids, chest expanders, stationery exercise bicycles, ~~gymnastic apparatus in the nature of balance beams, springboards, aerobic step machines, gymnastic training stools, gymnastic vaulting horses, protective padding for playing soccer, chest expanders, snowboards; fitness apparatus, namely, fitness apparatus in the nature of balance beams, springboards, aerobic step machines, gymnastic training stools, gymnastic vaulting horses, fitness exercise machines; skiing, tennis and angling equipment, namely, ski sticks, ski covers, ski cases, landing nets for anglers, fishing rods; skis, ski bindings, ski poles; skate boards, surfboards, roller skates, ice skates; balls, namely, sports and game balls, soccer balls, footballs; dumb-bells, shot putts, discus, javelins as sporting articles; tennis rackets and parts therefor, namely, grips, strings, grip bands and lead bands for tennis rackets; table tennis bats, badminton racquets, squash racquets, cricket bats, golf clubs and hockey sticks; tennis balls and shuttlecocks; tables for table tennis; clubs as gymnastic apparatus, sports hoops for target hoop games, nets for sporting purposes, namely, tennis nets, badminton nets, volleyball nets, goal sets comprising goal post and ball nets; sports gloves, namely, goalkeepers' gloves; knee, elbow, ankle and shin guards for sports purposes; golf bags, bags and covers for tennis racquets, table tennis bats, badminton racquets, squash racquets, cricket bats and hockey sticks; Christmas tree decorations, except confectionery and electric Christmas tree lights; card games; ~~electronic education teaching games for children; computer game accessories, namely, disk memories sold as a unit with video game machines, manual controls and video game machines adapted for use with television receivers; computer~~~~

~~game consoles for use with an external display screen or monitor; automatic gaming and entertainment machines adapted for use with external screens, namely, video games and computer games namely hand held electronic game units adapted for use with an external display screen or monitor; games and entertainment apparatus, adapted for use with an external screen, namely, video and computer game apparatus, namely computer game consoles for use with an external display screen or monitor; costume masks~~

~~IC 029—Sausages and charcuterie; meat; fish, seafood and molluscs, not live; poultry and game; meat extracts; milk; dairy products, namely, milk beverages, milk predominating, dairy based beverages, dairy based dips, cream being dairy products and substitutes therefor, namely, milk substitutes, artificial cream being dairy products substitutes; eggs and egg product; edible oils and fats; processed fruits, fungi and vegetables including nuts and pulses; preserved, frozen, dried and cooked fruits and vegetables; ready to eat meals based predominantly on game, eggs, meat, chicken, seafood, bacon or vegetables; canned soups; broth, soup; snack foods based on potatoes, nuts, vegetables, pulses; snacks based on tofu or meat; dairy based savory puddings; jellies, jams, compotes; potato chips, in particular potato chips; snack foods based on nuts; snack foods based on legumes; snacks based on vegetables or meat; spiced nuts; snack mixes consisting of dehydrated fruit and processed nuts~~

~~IC 030—Coffee, tea, cocoa and artificial coffee; espresso; rice; tapioca and sago; flour and preparations made from cereals, namely, cereal bars, cereal based snack foods, muesli, grain based snack foods; bread, pastry and confectionery made of sugar; edible ices; sweet products, namely, gum sweets, chocolate candies, ice candies, mint based sweet, starch based candies; sugar, honey, treacle; yeast, baking powder; salt; mustard; vinegar, condiments, namely, sauces; spices; edible ices; chocolate; sweets, in particular filled sweets; confectionery, namely, lollipops; savory biscuits; chocolate products, namely, chocolate confectionery, sweets and baked goods, namely, crumbles; sweets, namely, marshmallows; bubble gum; muesli bars; cereal based energy bars; fruit gum candy other than for medical use~~

~~IC 031—Unprocessed cereals; bulbs for agricultural and horticultural purposes; fresh fruits and vegetables; natural flowering plants and flowers; live animals; foodstuffs and fodder for animals; seeds for agricultural and horticultural purposes; malt for brewing and distilling~~

~~IC 033—Alcoholic beverages, except beers~~

IC 038 - Transmission of radio and television broadcasts or programmes **in the field of soccer** via wireless and cable networks; broadcasting of film, television, radio, teletext and videotext programmes or broadcasts **in the field of soccer**; providing access to the internet for on-line forums in the nature of chat rooms for social networking **in the field of soccer**; rental of telecommunication equipment; press agency services **in the field of soccer**, namely, electronic transmission of messages, press reports and market research data via electronic means and/or by computer; sound, image and data transmission **in the field of soccer** by cable, satellite, computer network, telephone and other lines, and all other electronic transmission media; electronic television broadcasting **in the field of**

soccer within the framework of subscription television services, including video-on-demand transmission services for others; providing access to an information database **in the field of soccer**; transmission of information **in the field of soccer** via wireless or cable networks; on-line services and transmissions **in the field of soccer**, namely, electronic transmission of information and messages including e-mail; providing of access to communications networks **in the field of soccer**, in particular for internet access, teleshopping and telebanking, including for use with television screens; providing user access to global computer networks **in the field of soccer**; electronic transmission of data and computer programs on electronic networks **in the field of soccer**, in particular on the internet and other electronic communications media; electronic transmission of sound, speech, images and/or data **in the field of soccer**; telephone communications and services, communications by cellular phones **in the field of soccer**; e-mail data transmission services, fax transmission services, SMS text messaging services, **all in the field of soccer**; providing access to information **in the field of soccer** stored on databases, including in particular by means of interactive computer systems; telephone services by means of information, complaints and emergency hotlines, **all in the field of soccer**; providing access to, and transmission of, information, texts, drawings and images, **all in the field of soccer**; providing access to information and entertainment programs on the internet, **all in the field of soccer**; broadcasting of web-TV programmes, interactive programmes and internet TV programmes, **all in the field of soccer**; electronic transmission of information, including sound, image and data, **all in the field of soccer**; electronic transmission of fee data, **all in the field of soccer**; providing access to data on the internet, **all in the field of soccer**; data transmission services between networked computer systems, **all in the field of soccer**; providing access to computer networks for the transmission of messages, images, text, speech, signals and data, **all in the field of soccer**; electronic transmission of data **in the field of soccer**

IC 041 - Production, screening and rental of films, video films and other television programmes **in the field of soccer**, namely, production of films, video films and television programs, film distribution, video recording services, distribution of television programs for others, rental of films, rental of video tapes and motion picture, rental of facilities and equipment for the production of television programs; rental of video and/or audio cassettes, tapes and discs and video games and computer games, **all in the field of soccer**; rental of television receivers and video decoders; education services **in the field of soccer**, namely, providing classes, seminars and workshops in the field of ~~sports~~, soccer, leadership, business and culture; providing of training, namely, ~~sports soccer~~ training, ~~namely, soccer training~~; entertainment in the nature of soccer exhibitions, soccer games, live music concerts, theater productions; sporting and cultural activities **in the field of soccer**, namely, providing sports training camps, soccer games, gymnasiums for sports training, sporting events in the nature of soccer tournaments, and physical fitness classes; provision of radio and television entertainment services, namely, providing ongoing radio and television programs in the field of ~~sports especially~~ soccer; organisation of sports events in the field of soccer; organisation of sporting competitions and community sporting in the field of soccer; entertainment in the nature of ongoing radio and television program in the field of soccer broadcast via television, radio, satellite, and the internet; entertainment in the nature of an ongoing radio and television program in the field of ~~sports~~ **soccer** quizzes broadcast via television, radio, satellite, and

the internet; organisation of competitions in the field of soccer; ~~entertainment services, namely, organising and conducting live music concert and theatre performances, social entertainment events and sports competitions;~~ publication and editing of books, magazines and other printed matter and associated electronic media, other than for advertising purposes, **all in the field of soccer**; organisation of and conducting ~~concert, theatre and entertainment events and sports~~ **soccer** competitions; production of film, television, radio and screen text, video text programmes or broadcasts, radio and television entertainment, **all in the field of soccer**; production of films and video films and other image and sound programmes for educational, instructional and entertainment purposes, including for children and young people, **all in the field of soccer**; rental and showing of sound and image recordings on video and/or audio cassettes, tapes and discs, **all in the field of soccer**; arranging and conducting soccer tournaments, ~~art exhibitions, concerts, theater performances,~~ lectures in the field of soccer; arranging and conducting of cultural, entertainment and sporting events and congresses, seminars, lectures and multimedia presentations for cultural and entertainment purposes in the field of ~~sports,~~ soccer, ~~leadership and business;~~ publishing of electronic publications in the field of ~~sports especially~~ soccer, included in this class; production of web-TV programmes, interactive television programmes and internet TV programmes, **all in the field of soccer**; providing training to athletes in the fields of public appearances and interview skills, training services in the field of sports promotion, **all in the field of soccer**; entertainment ticket agency services **in the field of soccer**; ~~ticket and seat reservations for concerts, shows and other entertainment events;~~ ticket booking and reservation services for ~~cultural and sporting~~ **soccer** events; providing facilities for children, young people and adolescents for leisure purposes, in particular in the field of ~~sports~~ **soccer**; providing information on ~~entertainment events and sporting and leisure activities~~ **soccer**; rental of sports equipment **in the field of soccer** except vehicles; editing of written texts in the field of ~~sports especially~~ soccer; sports agency services **in the field of soccer**, namely, ~~arranging of sporting activities, namely,~~ arranging of sporting activities in the field of soccer; production of radio and television broadcasts/programmes via wireless or cable networks, **all in the field of soccer**; arranging and conducting of cultural, entertainment and sporting events for charitable purposes, namely, ~~live music concerts,~~ soccer training camps, competitions and tournaments; production of prize game broadcasts via television, radio and online channels, **all in the field of soccer**

IC 045 - Services of a sports association **in the field of soccer**, namely, legal consultancy and representation to social and political decision-makers; chaperoning services, namely, personal body guarding; licensing, of intellectual property in the field of **soccer, namely,** films, television and radio productions and other image and audio programmes, and print media and other publications, in particular relating to ~~football~~ **soccer** events; legal administration and exploitation, through the issuing of licenses, of copyright and industrial property rights, for others **in the field of soccer**, namely, legal services relating to the exploitation of copyright for printed matter; legal services relating to the exploitation of film, television and other ancillary copyright in the field of **soccer, namely,** merchandising; legal services and consultancy; mediation; consultancy relating to management of intellectual property and copyrights, namely, intellectual property consultancy and copyright management consultancy, **all in the field of soccer**; licensing and legal administration of television transmission rights, namely, rights to the

transmission of sporting events, **all in the field of soccer**; licensing and legal administration of intellectual property rights to press, radio, television and film articles for use on sound and image carriers, **all in the field of soccer**; licensing and legal administration of rights to articles in newspapers and periodicals, namely, legal services relating to the exploitation of copyright for printed matter, **all in the field of soccer**

Since the proposed amendments are in the nature of limitations, no re-publication should be required, and the amendment therefore should be permissible.

The parties also jointly move to suspend the above-referenced opposition pending review of the proposed amendment. The parties further consent that upon the approval and entry of the proposed amendment to the Application, the opposition and all claims asserted therein shall be dismissed with prejudice.

If the Board rejects this Motion on Consent, the parties agree to cooperate with one another and execute any additional documents necessary to satisfy any issues identified by the Board with the parties' Motion on Consent, so long as they are consistent with the parties' understanding and intent.

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Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email upon counsel for Opposer, ben@taluslaw.com, on this 6th day of July, 2020.

/s/ James D. Weinberger

James D. Weinberger