

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

RA/kb/mbm

December 9, 2020

Opposition No. 91250941

Sharp Kabushiki Kaisha TA Sharp Corporation

v.

Michael E. Nipke LLC

Mary Beth Myles, Interlocutory Attorney:

On December 2, 2020, Applicant filed a proposed amendment to its application Serial No. 88173185, with Opposer's consent.

By the proposed amendment, Applicant seeks to amend the identification of goods as follows: (additions are indicated in **bold** and deletions are in ~~strike-through~~)

From: Power operated tools, namely, lawn and garden edgers, trimmers, tillers, leaf blowers, snow blowers, cultivators, saws, drills, impact wrenches, chainsaws; power-operated sanders; ~~power-operated nailing guns~~; power-operated inflators; air compressors; ~~generators of electricity~~; high pressure washers

To: Power operated tools **that are plug-in AC powered**, namely, lawn and garden edgers, trimmers, tillers, leaf blowers, snow blowers, cultivators, saws, drills, impact wrenches, chainsaws; **plug-in AC** power-operated sanders; **plug-in AC** power-operated inflators; **plug-in AC power-operated** air compressors; **plug-in AC power-operated** high pressure washers; **plug-in AC power-operated polishers**; **plug-in AC power-operated grinders**; **plug-in AC power-operated rotary tools**

A proposed amendment to any application or registration which is the subject of an *inter partes* proceeding must also comply with all other applicable rules and statutory provisions, including Trademark Rules 2.71-2.75. *See* TBMP §§ 514.01 and 605.03(b). In particular, while an applicant may amend to clarify or limit the identification, adding to or broadening the scope of the identification is not permitted. *See* Trademark Rule 2.71(a); TMEP §§1402.06 *et seq.*, 1402.07.

The proposed amendment is unacceptable in part inasmuch as it identifies goods that are not within the scope of the present identification. Specifically, the wording “plug-in AC power-operated polishers; plug-in AC power-operated grinders; plug-in AC power-operated rotary tools” in the proposed amendment is beyond the scope of the present identification.

Therefore, the Board cannot accept this wording in the proposed amendment and will not enter the amendment.

In view of these findings, the motion to amend is **denied without prejudice**. The present identification of goods, that is, the identification prior to the filing of the motion to amend, remains operative for purposes of future amendment. *See* Trademark Rule 2.71(a); TMEP §1402.07(d).

However, inasmuch as the filing of the proposed amendment indicates to the Board that the parties are making efforts to settle this matter, proceedings are suspended, and the parties are allowed until **30 days from the date of this order** to file a revised motion to amend, failing which the Board will resume proceedings and reset dates, and the opposition will go forward on the present application.