

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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mbm/kk

September 1, 2021

Opposition No. 91251432

Shem, LLC

v.

Cummins Inc.

Mary Beth Myles, Interlocutory Attorney:

On August 23, 2021, Applicant filed a proposed amendment to application Serial No. 88122113, with Opposer's consent, and Opposer's withdrawal of the opposition, with Applicant's written consent, contingent upon entry of the amendment.

By the proposed amendment, Applicant seeks to amend the identification of services as follows (additions in bold, deletions in strike through):

From: Maintenance, repair and servicing of engines and of parts thereof; ~~maintenance, repair and servicing of turbochargers and air compressors and parts and fittings therefor; vehicle maintenance; motor vehicle maintenance and repair services; vehicle engine maintenance and repair services; servicing of engines and of parts thereof; rebuilding machine engines that have been worn or partially destroyed; rebuilding machines that have been worn or partially destroyed; vehicle lubrication; electrical generator maintenance and repair services; repair and maintenance of generating plants and generator sets; vehicle fleet maintenance services; servicing, repairing, reconditioning and reconstruction of small engines and parts thereof;~~ information and advisory services relating to all the aforesaid services.

To: Maintenance, repair and servicing of engines and of parts thereof **manufactured and/or sold by Applicant**; electrical generator maintenance and repair services; repair and maintenance of generating plants and generator sets; information and advisory services relating to all the aforesaid services.

The proposed amendment is unacceptable in part. The words “Applicant” or “Registrant” may not be used in an identification of goods or services. TMEP § 1402.09.

In view thereof, the stipulated motion to amend the identification of goods is denied without prejudice. Additionally, the contingent withdrawal of the opposition is deferred.

Insofar as the parties have agreed to resolve this matter, the parties are allowed until THIRTY (30) DAYS from the mailing date of this order to submit a revised motion to amend Applicant’s identification of goods, failing which trial dates will be reset and the proceeding will move forward with the identification of goods as published.

Proceedings are otherwise suspended.