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

Proceeding	91252022
Party	Defendant Espinosa Cigars, LLC
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Date	02/13/2020
Attachments	Motion to Amend Application.pdf(203286 bytes)

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

BBK Tobacco & Foods, LLP, d/b/a HBI International

Opposer,

v.

Opposition No.: 91252022
Application Serial No. 88/373,790

Espinosa Cigars, LLC,

Applicant.

_____ /

MOTION TO AMEND APPLICATION
AS A RESULT OF SETTLEMENT BETWEEN THE PARTIES

Espinosa Cigars, LLC (hereinafter “Applicant”), by and through her undersigned counsel, and pursuant to TBMP §§514.01 and 514.02, hereby seeks to amend trademark application Serial No. 88/373,790 for “WAR ZONE” into a one word mark, namely “WARZONE” as a result of a settlement agreement with Opposer BBK Tobacco & Foods, LLP, d/b/a HBI International (hereinafter “Opposer”) which was fully executed on February 11, 2020.

Specifically, the parties have settled their dispute and have fully executed their written settlement agreement as of February 11, 2020. Pursuant to the terms thereof, Opposer has three business days from February 11, 2020 to file a notice of settlement and dismissal with prejudice of this Opposition. Applicant has no doubt that Opposer will timely comply.

In addition, the settlement agreement of the parties stipulates that “[w]ithin five (5) business days from the Effective Date, if Espinosa Cigars has not already done so, Espinosa Cigars will seek to amend its Application Serial No. 88/373,790 for ‘WAR ZONE’ from two separate words to ‘WARZONE’ as a single word.” Applicant seeks to comply with the agreement of the parties through the instant request to the Board and asks that the Board approve the same.

MEMORANDUM OF LAW

Pursuant to TBMP §514.01:

The amendment of any application or registration that is the subject of an inter partes proceeding before the Board is governed by 37 C.F.R. § 2.133. Thus, an application that is the subject of a Board inter partes proceeding may not be amended in substance, except with the consent of the other party or parties and the approval of the Board, or except upon motion granted by the Board.

Moreover:

When a request to amend an application or registration that is the subject of a Board inter partes proceeding is made with the consent of the other party or parties, and the proposed amendment is in accordance with the applicable rules and statutory provisions, the request ordinarily will be approved by the Board.

See TBMP §514.02

The parties have settled their dispute and expressly agreed to the amendment sought in this motion, and the amendment sought is not inconsistent with the applicable rules or statutory provisions applicable to it. The application at issue is not the subject of any other proceedings before the Board. As such, the request to amend should be granted, amendment should be entered, and the application should mature to Notice of Allowance.

WHEREFORE, Applicant, Espinosa Cigars LLC, respectfully requests that the Board grant the requested motion to amend trademark Application Serial No. 88/373,790 from “WAR ZONE” to “WARZONE” as agreed by the parties in their written settlement agreement, and grant such other relief as the Board deems just and proper consistent with this motion.

Dated: February 13, 2020

Respectfully submitted,

s/GUSTAVO SARDIÑA
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to counsel for Opposer by email on February 13th, 2020, to:

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s/GUSTAVO SARDIÑA
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