

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
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December 8, 2020

Opposition No. 91263472

Neal Technologies, Inc.

v.

Bulletproof Automotive, LLC

Jill M. McCormack, Interlocutory Attorney:

As last reset, an answer to the notice of opposition was due in this proceeding on September 15, 2020. (4, 5 TTABVUE). Inasmuch as it appears that no answer has been filed, nor has Applicant filed a motion to extend the time to file an answer, Applicant is in default. *See* Trademark Rule 2.106, 37 C.F.R. § 2.106; TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 312 (2020).

On November 5, 2020, Applicant filed a renewed proposed amendment to its application Serial No. 88406429, with Opposer's consent.¹

By the proposed amendment, Applicant seeks to amend the identification of goods and services as follows²:

¹ Applicant first filed its proposed amendment on September 30, 2020; however, the submission did not include a redline of the proposed amendment. Accordingly, the Board allowed Applicant time to provide that redline. (7 TTABVUE).

² Deleted wording is shown in strikethrough.

INTERNATIONAL CLASS 12

From:

Automotive body kits comprising external structural parts of automobiles; Pre-designed vinyl vehicle wraps specially adapted for vehicles; ~~all of the foregoing goods excluding vehicle diesel engines and their component parts, vehicle engine mounts and their component parts, and vehicle steering and suspension systems and their component parts~~

To:

Automotive body kits comprising external structural parts of automobiles; Pre-designed vinyl vehicle wraps specially adapted for vehicles

INTERNATIONAL CLASS 37

From:

Car washing; Automobile cleaning and car washing; ~~all of the foregoing services excluding repair, maintenance, and installation of diesel engines and their component parts~~

To:

Car washing; Automobile cleaning and car washing

The proposed amendment to the identification is not acceptable because it exceeds the scope of the identification in the application. *See* TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMPEP) §§ 805, 1402.06 *et seq.*, 1402.07. Applicant's goods and services may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably amended. *See* TMPEP § 1402.06. Here, by the proposed amendment, Applicant seeks to delete limiting language, such that the proposed identification is beyond the scope of the original. Accordingly, the Board cannot accept the amendment.

In view of the foregoing, Applicant's consent motion to amend is **DENIED**.³

In addition, in view of the parties' consented motion to amend, which the Board construes as including Opposer's consent to discharge Applicant's default for failure to file an answer, Applicant's default is hereby set aside.

Applicant is allowed until **Tuesday, December 29, 2020**, to file an answer to the notice of opposition, failing which the Board may enter default judgment against Applicant.

Proceedings are **RESUMED**. Dates are reset as follows:

Time to Answer	12/29/2020
Deadline for Discovery Conference	1/28/2021
Discovery Opens	1/28/2021
Initial Disclosures Due	2/27/2021
Expert Disclosures Due	6/27/2021
Discovery Closes	7/27/2021
Plaintiff's Pretrial Disclosures Due	9/10/2021
Plaintiff's 30-day Trial Period Ends	10/25/2021
Defendant's Pretrial Disclosures Due	11/9/2021
Defendant's 30-day Trial Period Ends	12/24/2021
Plaintiff's Rebuttal Disclosures Due	1/8/2022
Plaintiff's 15-day Rebuttal Period Ends	2/7/2022
Plaintiff's Opening Brief Due	4/8/2022
Defendant's Brief Due	5/8/2022
Plaintiff's Reply Brief Due	5/23/2022
Request for Oral Hearing (optional) Due	6/2/2022

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony

³ The previous identification remains operative for purposes of any future proposed amendment. *See* TMEP § 1402.07(d).

periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).