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Filing date: **10/19/2021**

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

Proceeding	91269767
Party	Defendant TREBCO SPECIALTY PRODUCTS, INC.
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Date	10/19/2021
Attachments	OPP NO 91269767 MOTION.pdf(113645 bytes )

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

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THOMAS M. KELLY,

Opposer,

Opp. No. 91269767

v.

TREBCO SPECIALTY PRODUCTS INC.,

Applicant.

-----X

**MOTION ON CONSENT TO AMEND APPLICATION AND  
CONTINGENT WITHDRAWAL OF OPPOSITION WITH PREJUDICE**

I. Motion on Consent to Amend Application

Pursuant to TBMP 514.02, Applicant Trebco Specialty Products Inc., with the consent of Opposer Thomas M. Kelly., hereby requests that the opposed Application Serial Nos. 90033138 and 90033142 be amended as follows:

A. **WUBBAWUBBI, Ser. No. 90033138**, Identification of Goods in *International Class 28 only*. The Applicant requests that the identification of goods in the opposed application in International Class 28 only be amended to add “not for dogs or cats” to “game balls” and “plush toys, stuffed toy animals, stuffed toys, soft sculpture toys” so that the identification of goods as amended reads as follows:

“International Class 28 - “Games and toys, namely, board games, card games, party games, puzzle games, bath toys, infant toys, baby multiple activity toys and building blocks; baby and children’s rattles; Games and toys, namely,

game balls not for dogs or cats; plush toys not for dogs or cats, stuffed toy animals not for dogs or cats, stuffed toys not for dogs or cats, soft sculpture toys not for dogs or cats.”

- B. **WUBBAWUB, Ser. No. 90033142**. Identification of Goods in *International Class 28 only*. The Applicant requests that the identification of goods in the opposed application in International Class 28 only be amended to add “not for dogs or cats” to “game balls” and “plush toys, stuffed toy animals, stuffed toys, soft sculpture toys” so that the identification of goods as amended reads as follows:

International Class 28 - “Games and toys, namely, board games, card games, party games, puzzle games, bath toys, infant toys, baby multiple activity toys and building blocks; baby and children’s rattles; Games and toys, namely, game balls not for dogs or cats; plush toys not for dogs or cats, stuffed toy animals not for dogs or cats, stuffed toys not for dogs or cats, soft sculpture toys not for dogs or cats,”

Pursuant to Section 1505.01(a) of the Trademark Manual of Examining Procedure, these amendments may be entered without requiring either an additional search or the republication of the mark.

II. Contingent Withdrawal of Opposition

Contingent upon approval by the Trademark Trial and Appeal Board of the amendment requested, Opposer hereby withdraws its Notice of opposition with prejudice. Applicant has not yet file an answer but the parties have agreed that the opposition will be withdrawn with prejudice.

III. Suspension of Proceedings

Pending acceptance of the Motion on Consent to Amend Application, the parties request that the Board suspend the proceedings, and should the motion not be accepted, the parties request that the Board reset all deadlines accordingly.

Dated: October 19, 2021

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
Attorneys for Applicant

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CONSENTED TO:

SCARINCI HOLLENBECK  
Attorneys for Opposer

By: /Joseph M. Manak/  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Motion was served on Opposer's attorney Joseph M. Manak, of Scarinci Hollenbeck, by email at jmanak@sh-law.com; ipgny@sh-law.com' docketing.shlaw@clarivate.com on October 19, 2021.

By: /Deborah K. Squiers/