

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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January 3, 2024

Opposition No. 91277330

*East West International LLC*

*v.*

*Hrak Atechyan*

**M. Catherine Faint,  
Interlocutory Attorney:**

On November 16, 2023, Applicant filed a proposed amendment to application Serial No. 90774318, with Opposer's consent, and Opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

Applicant has also included a stipulated motion to divide its application in Class 35 so that two separate applications will exist with Class 35 as amended and Applicant has stated that it will assign the clothing-services application to Opposer. Applicant has submitted its fee for division with both applications

However, the proposed amendment to the services in Class 35 for the “non-clothing related application” is not acceptable as set out more fully below.

By the proposed amendment, Applicant seeks to amend the identification of services in Class 35 as follows (additions in **bold**, deletions in ~~strike through~~):

From: On-line retail store services featuring sports teams clothing, memorabilia, and general consumer sports merchandise.

To: On-line retail store services featuring **licensed professional** sports teams clothing, **namely, sports teams scarves, neckties, bow ties, aprons, and gloves, none of the foregoing to include footwear or clothing other than expressly listed above memorabilia, and general consumer sports merchandise.**

(the clothing-services application).<sup>1</sup> This amendment to the Class 35 identification is acceptable.

However, the following amendment is **not acceptable** because it seeks to amend the wording to the form of “on-line retail store services featuring ... memorabilia, namely ... memorabilia.”

To: On-line retail store services featuring **licensed professional** sports teams ~~clothing,~~ memorabilia, **namely, wallets, pet products, memorabilia, flags,** and general consumer sports merchandise, **none of the foregoing to include footwear or clothing.**

(the non-clothing related application).

An identification should set forth the common name of a good or service using terminology that is generally understood. The proposed wording is equivalent to using terminology such as, “included in this class,” is not considered the common name of particular goods or services, and would not be understood by those unfamiliar with the Nice Classification. When an identification includes such wording it must normally be deleted as the wording does not identify a particular good or service. *See*

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<sup>1</sup> The parenthetical information and the Class numbers are not considered a part of the identifications of services in the applications. *See* TMEP § 1402.01.

TMEP § 1402.01. To be acceptable, Applicant must delete the second mention of memorabilia in the identification of services.

In view of these findings, the motion to amend is **denied** without prejudice and the proposed amendments have not been entered. The present recitation of services, 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). The Board has not forwarded the application for division at this time.

However, inasmuch as the filing of the proposed amendment and request to divide the application indicates to the Board that the parties are making efforts to settle this matter, proceedings are **suspended**, and the parties are allowed until **THIRTY (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.

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