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

Proceeding no.	91282278
Party	Defendant Berry Global, Inc.
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Submission	Motion to Amend Application
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Date	05/05/2023
Attachments	TTAB_ Motion to Amend Identification of Goods - And Dismiss Opposition.pdf(214379 bytes)

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

Aston Martin Lagonda Limited LLC

Opposer,

vs.

Berry Global, Inc.

Applicant.

Opposition No.: 91282278

Mark: BIOVANTAGE

Serial No.: 97/093762

Published: June 14, 2022

**Applicant's Motion to Amend the
Identification of Goods and Sustain the
Opposition Proceeding**

Berry Global, Inc. ("Applicant"), pursuant to 37 C.F.R. §2.135 and TBMP 602.01, hereby moves this Board to amend the identification of goods in U.S. Application Serial No. 97/093,762 for the mark BIOVANTAGE to delete International Class 012 and the associated goods, namely, "Fitted covers of plastic for vehicles and boats," and dismiss the Opposition proceeding. In support of this motion, Applicant states as follows:

1. On October 26, 2021, Applicant filed a multi-class trademark application, U.S. Application Serial No. 97/093,762 (the "'762 application") for the mark BIOVANTAGE for, among other things, "Fitted covers of plastic for vehicles and boats" in International Class 012.
2. On December 12, 2022, the Opposer, Aston Martin Lagonda Limited LLC ("Opposer"), filed a partial Notice of Opposition objecting solely to the registration of the goods claimed in International Class 012 in the '762 application. Opposer did not object to any of the goods claimed in International Classes 016, 017, 024, and 040 in the '762 application and are not a part of this partial Opposition proceeding.

3. Shortly after the Opposer filed its partial Notice of Opposition, the parties commenced settlement discussions and, on March 17, 2023, filed a stipulated motion to suspend the partial Opposition proceeding on the basis that the parties were actively engaged in settlement discussions in an effort to resolve the matter amicably.
4. Unfortunately, the parties have not been able to reach a mutually satisfactory resolution of this matter.
5. Applicant, despite repeated requests, has not been able to secure Opposer's consent to the filing of this motion.
6. Consequently, Applicant is moving to delete solely the goods claimed in International Class 012. The goods in International Classes 016, 017, 024, and 040 will remain in full force in the '762 application.
7. Granting of Applicant's motion to amend the identification of goods to delete International Class 012 and the associated goods is dispositive and Applicant's '762 application for BIOVANTAGE should be permitted to proceed towards registration and Applicant respectfully requests the same.

WHEREFORE, Applicant respectfully requests that the Board enter an order granting its motion in accordance with 37 C.F.R. §2.135 and TBMP 602.01 and delete International Class 012 from the '762 application, sustain the Opposition proceeding against Applicant and permit the remaining '762 application to proceed to registration.

Respectfully submitted,

Date: May 05, 2023

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **Applicant's Motion to Amend the Identification of Goods and Sustain the Opposition Proceeding** was served this 5th day of May, 2023, via email, upon Opposer's Attorney, as follows:

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