

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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SKS/dmd

August 2, 2019

Cancellation No. 92068838

Sino Legacy Holdings Limited

v.

Discover Financial Services

Shanna K. Sanders, Interlocutory Attorney:

On July 2, 2019, Respondent filed the parties' consented motion requesting a proposed amendment¹ to Respondent's Registration No. 3640200,² and to suspend the instant proceeding pending a final determination of Petitioner's application Serial No. 87378457 by the Trademark Examining Attorney.

¹ The Board notes that prior to filing this proposed amendment, Respondent filed a combined declaration of use and application for renewal of Registration No. 3640200 under Sections 8 and 9 with the Office's post-registration branch in which Respondent deleted the goods it now seeks to delete by the proposed amendment, i.e., "wireless devices, namely, mobile phones" in Class 9. In a cancellation proceeding against any registration having multiple goods and/or services within a single class, if the respondent permits one or some of the goods or services which is the subject of the cancellation proceeding to be cancelled under Trademark Act § 8 by failing to include a statement of continuing use, or fails to renew the registration under Trademark Act § 9, the cancellation or failure to renew with respect to that good(s) or service(s) is governed by 37 CFR § 2.134(b). However, because Petitioner consents to this proposed amendment, the Board exercises its discretion not to issue an order to show cause under 37 C.F.R. § 2.134(b). *See* TBMP § 602.02(b) (June 2019).

² Respondent submitted a new declaration and the requisite fee for its registration.

AMENDMENT

By the proposed amendment, Respondent seeks to amend the identification of goods in International Class 9 as follows (strikethrough portion indicates text to be deleted):³

From:

RADIO FREQUENCY TRANSPONDER ENCRYPTED WITH INFORMATION FOR USE WITH CONTACTLESS PAYMENT; CARD READERS FOR CREDIT CARDS AND DEBIT CARDS; READERS FOR CONTACTLESS PAYMENT DEVICES; ~~WIRELESS DEVICES, NAMELY, MOBILE PHONES~~

To:

RADIO FREQUENCY TRANSPONDER ENCRYPTED WITH INFORMATION FOR USE WITH CONTACTLESS PAYMENT; CARD READERS FOR CREDIT CARDS AND DEBIT CARDS; READERS FOR CONTACTLESS PAYMENT DEVICES

The amendment complies with the requirements of Trademark Rule 2.173 and is limiting in nature. Moreover, Petitioner consents thereto. Accordingly, the amendment is approved. *See* Trademark Rule 2.133(a).

The amendment will be forwarded to the Post Registration Branch of this Office for entry of the amendment in accordance with Section 7(e) of the Trademark Act.⁴

³ The identification of services in Class 36 remains unchanged. The Board notes a typographical error in the consented motion in that Respondent referenced Class 42 as opposed to Class 36 when indicating that no changes were made to that class. Registration No. 3640200 is a multi-class application that includes goods in Class 9 and services in Class 36 only.

⁴ A copy of the Board's order granting the amendment and Respondent's declaration will be forwarded electronically for uploading to the record of the registration.

SUSPENDED

Proceedings are suspended pending a final determination by the Examining Attorney of Petitioner's application Serial No. 87378457. The Board should be notified when a final determination has been made so that this case may be called up for appropriate action.