

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  
General Email: [TTABInfo@uspto.gov](mailto:TTABInfo@uspto.gov)

CME/WF/lw

November 4, 2019

Cancellation No. 92070411

*Lucid Sound, Inc.*

*v.*

*Team IP Holdings, LLC*

**By the Trademark Trial and Appeal Board:**

On October 24, 2019, Respondent filed a stipulated proposed amendment to its Registration No. 5365711, with Petitioner's consent.

By the proposed amendment, Respondent seeks to change the identification of goods in International Class 9, as follows<sup>1</sup> (proposed deletions are displayed in ~~strikethrough~~ and additions are displayed in **bold**):

**From:** Headphones; wireless headphones; ear buds; wireless ear buds; earphones; ~~sound amplifiers; sound mixers with integrated amplifiers; sound projectors; sound systems comprising remote controls, amplifiers, loudspeakers and components therefor; wireless speakers; wireless digital media streaming devices; electronic components, namely, biometric sensors, proximity sensors, and power cell batteries; electronic apparatus with multimedia functions for use with all of the aforesaid goods, namely, multifunctional electronic devices for displaying, measuring, and transmitting biometric data; sensors for scientific use, for the purpose of gathering biometric data; hearing muffs, namely, sound amplifiers; and personal sound amplification products, namely, PSAPs intended to amplify sound for non-hearing impaired individuals~~

---

<sup>1</sup> The International Class 10 goods are not subject to the cancellation proceeding and are to remain unchanged.

**To:** Headphones; wireless headphones; ear buds; wireless ear buds; earphones; **all of the foregoing categories for hearing protection and/or sound amplification to enhance hearing and/or provide environmental or situational sound awareness, and excluding gaming headsets adapted for use in playing video games or uses other than for providing hearing enhancement and/or environmental or situational sound awareness;** hearing muffs, namely, sound amplifiers **to enhance hearing and/or for sound protection;** personal sound amplification products, namely, PSAPs intended to amplify sound for non-hearing impaired individuals, **namely, to enhance hearing and/or provide environmental or situational sound awareness;** wireless digital media streaming devices **for use in connection with the aforementioned sound protection and sound amplification products;** power cell batteries.

While the amendment is clearly limiting in nature, and Petitioner consents to it, as required under Trademark Rules 2.133(a) and 2.173(b), the amendment is not: (1) accompanied by the proper fee under Trademark Rule 2.6; and (2) verified or supported by a declaration under 37 C.F.R. § 2.20. *See* Trademark Rules 2.6 and 2.173. In view thereof, the amendment is **denied without prejudice**. The present identification of goods, that is, the identification prior to the filing of the motion to amend, remains operative for the purposes of any future amendment. *See* Trademark Rule 2.71(a); TRADEMARK MANUAL OF EXAMINING PROCEDURE § 1402.07(d) (Oct. 2018).

However, inasmuch as the filing of the stipulated amendment and reference to a coexistence agreement indicates that the parties are marking efforts to settle this matter, proceedings are **suspended**, and the parties are allowed until **thirty days**

**from the mailing date of this order** to file a revised motion to amend,<sup>2</sup> failing which the Board will resume proceedings and reset dates.

---

<sup>2</sup> Respondent may pay the fee and submit the required declaration through the Board's online filing system, ESTTA, by selecting: (1) "Opposition, Cancellation or Concurrent Use (general filings)" from the drop down box at the bottom of the page and inputting the proceeding number; and (2) "Motion to Amend Registration (Requires Fee and Declaration)" under the drop down menu for "Discovery/Trial Motions." This form is not available to Petitioner.