

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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RK/mc

Mailed: August 2, 2016

Opposition No. **91215997**

*Duke University*

*v.*

*Dainese S.p.A.*

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

On July 22, 2016, Opposer filed Applicant's second proposed amendment to its involved **Application Serial No. 79124573**, with Opposer's written consent, and Opposer's withdrawal of the opposition, contingent upon entry of the amendment.

By the proposed amendment, Applicant seeks to amend the identification of goods in International Classes 9 and 25 as follows (amendment in bold):<sup>1</sup>

**From:** Protective clothing for life-preserving purposes for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding, in the nature of suits, jackets, trousers, helmets, gloves and boots containing air bags for the prevention of injury; protective helmets; protective helmets for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding; protective footwear for the prevention of accidents and injury; protection devices for

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<sup>1</sup> The identifications of goods in unopposed classes 12 and 28 remain unchanged. However, the proposed amendment seeks to amend the identification of goods in International Class 9 which is also unopposed. As noted in the Board's prior order, the Board will generally not act on an amendment to goods or services that are not subject to the proceeding. However, as the entry of the proposed amendment will result in a withdrawal of the opposition, the Board has considered the amendment to the Class 9 goods in the interest of judicial economy.

personal use against accidents, namely, air bags; protective glasses; protective glasses for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding; protective gloves for protection from accidents; diving gloves; triggering software for inflatable protective devices; accelerometer sensors; impact sensors for measuring deceleration and accident impact severity; electronic control units for air bags; in International Class 9.

Clothing articles, namely, raincoats, T-shirts, trousers, shirts, jackets, gilets, sweaters, sports jackets, coats, overalls; headwear; belts; shoes; boots; gloves; ski gloves; motorcycle gloves; riding gloves; in International Class 25.

**To:** Protective clothing for life-preserving purposes for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding, in the nature of suits, jackets, trousers, helmets, gloves and boots containing air bags for the prevention of injury; protective helmets; protective helmets for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding; protective footwear for the prevention of accidents and injury; protection devices for personal use against accidents, namely, air bags; protective glasses; protective glasses for sports, namely, motoring, motorcycling, cycling, skiing and mountaineering, riding; protective gloves for protection from accidents; diving gloves; triggering software for inflatable protective devices; accelerometer sensors; impact sensors for measuring deceleration and accident impact severity; electronic control units for air bags; **all protective gear in the foregoing, in the nature of garments, containing protective padding for the prevention of injury; none of the foregoing intended or marketed for everyday general purpose wear;** in International Class 9.

Clothing articles, namely, raincoats, trousers, jackets, gilets, **jackets for use in outdoor sport**, coats, overalls; headwear; shoes; boots; gloves; ski gloves; motorcycle gloves; riding gloves; **all the foregoing containing protective padding for the prevention of injury and not intended or marketed for everyday general purpose wear;** in International Class 25.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because Opposer consents thereto, the amendment is **APPROVED** and entered. *See* Trademark Rule 2.133(a).

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The contingency in Opposer's withdrawal having now been met, the opposition is **DISMISSED** in accordance with the agreement between the parties.

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