

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Taylor

Mailed: July 24, 2003

Opposition No. 91121228

Kulkoni, Inc.

v.

USHA Martin Americas,  
Inc.

Jyll S. Taylor, Attorney:

On April 2, 2003, opposer's attorneys filed a communication indicating that opposer "Kulkoni has decided that further prosecution of its opposition to registration of ... Serial No. 75/670,023 is not sensible." By that statement, the Board presumes that opposer is seeking to withdraw its opposition to involved Serial No. 75/670,023 without prejudice.

On April 11, 2003, applicant filed a combined response to the request to withdraw in which it primarily indicated that it did not consent to the withdrawal and a motion to suspend these proceedings pending the disposition of the motion to withdraw.

Trademark Rule 2.106(c) provides that after an answer is filed, the opposition may not be withdrawn without prejudice except with the written consent of applicant.

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While the Board notes opposer's extensive arguments regarding the issue of acquired distinctiveness, these arguments are not relevant to opposer's withdrawal of the opposition and have not been considered. Additionally, the Board does not render advisory opinions.

Accordingly, and because it is unclear whether opposer seeks an unconditional withdrawal of the notice of opposition, opposer is allowed until **THIRTY DAYS** from the mailing date hereof to file a withdrawal of the opposition, failing which proceedings will be resumed and appropriate dates reset.

Proceedings herein are otherwise suspended and are considered to have been suspended since April 11, 2003, the filing date of applicant's motion.