

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: May 5, 2003

Opposition No. 91122310

THE MOTLEY FOOL, INC.

v.

JOHN R. FIACO

On March 7, 2003, the Board granted applicant's second motion to dismiss as conceded and entered judgment against opposer with prejudice.

It has since come to the attention of the Board that applicant filed, on September 27, 2002, an express withdrawal of its application, without opposer's consent.

In view thereof, the March 7, 2003 Board order is in error and is hereby vacated. Fed. R. Civ. P. 60.

The Board now turns to consideration of applicant's express abandonment of application Serial No. 75/930,243.

Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against applicant.

In view thereof, and because opposer's written consent to the abandonment is not of record, judgment is hereby entered

against applicant, the opposition is sustained and registration to applicant is refused.

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