

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

nlo

Mailed: April 8, 2002

Opposition No. 91150502

INDYMAC, INC.

v.

WOODRUFF-SAWYER & CO.

Nancy L. Omelko, Interlocutory Attorney:

On November 19, 2001, opposer, by filing a timely notice of opposition, commenced proceedings against the registration sought in application Serial No. 76/063,752. See Trademark Rule 2.101(a). On January 1, 2002, applicant filed an abandonment of its application Serial No. 76/063,752 under Trademark Rule 2.68.¹

After the commencement of the opposition, an application may not be abandoned without the written consent of the opposer, or else judgment will be entered against applicant. See Trademark Rule 2.135. In cases such as this one where the abandonment is filed prior to the applicant's receipt of the notice that the opposition has been

¹ Applicant's abandonment does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said abandonment is forwarded herewith to counsel for opposer.

instituted, the Board will defer entry of judgment and allow the applicant time to attempt to obtain and submit the opposer's consent to the abandonment. If consent cannot be obtained, then the applicant has the option of withdrawing the abandonment and defending the opposition on the merits. See *In re First National Bank of Boston*, 199 USPQ 296 (TTAB 1978).

In view thereof, applicant is allowed until **THIRTY DAYS** from the mailing date hereof to obtain, and file, opposer's written consent to the previously filed abandonment. If consent cannot be obtained, then applicant may withdraw the abandonment of the application and proceed to defend the opposition by filing a withdrawal of the abandonment and an answer to the notice of opposition within **FORTY DAYS** of the mailing date stamped on this order. If applicant does not avail itself of either option, then judgment will be entered in accordance with Trademark Rule 2.135.

Proceedings herein are otherwise suspended.