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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

E. & J. Gallo Winery, Inc.
Opposer

v.

Dalmont Foods, L.L.C.
Applicant

§
§ Opposition No. 91152288
§ Serial No: 2,549,261
§ Mark: JUANA GALLO
§
§ Opposition No. 91153269
§ Serial No: 76/316,680
§ Mark: JUANA GALLO COCINA
§ MEXICANA
§

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TRADemark TRIAL AND APPEAL BOARD



06-03-2003

U.S. Patent & TMOfo/TM Mail Ropt Dt. #22

Dated: May 23, 2003

UNOPPOSED APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD

TO THE HONORABLE TRIAL AND APPEAL BOARD:

I, the undersigned attorney of record for Applicant, DALMONT FOODS, LLC, in the above referenced oppositions, hereby apply to the Trademark Trial and Appeal Board to withdraw as the attorney of record in said trademark oppositions for conduct rendering it unreasonably difficult for the practitioner to carry out the employment effectively, for non-payment of legal fees, and for Applicant knowingly and freely assenting to the termination of employment. Opposer, E. & J. Gallo Winery, Inc. has been advised, and does not oppose this withdraw.

As per 37 C.F.R. §10.40(c)(1)(iv) the Applicant's conduct has made it unreasonably difficult for me to carry out the employment effectively. Since May 1, 2003, I have been unable to contact Applicant's primary representative by phone. Despite leaving numerous telephone messages and letters, Applicant has made no attempts to return or reply contact by phone or mail, with the exception of the May 23, 2003 email discussed below.

As per 37 C.F.R. §10.40(c)(1)(vi) Applicant has failed to pay fees associated with employment. Since November of 2002, I have rendered substantial legal service to the Applicant in connection with Applicant's defense of the above listed oppositions and in satisfaction of the Applicant's instructions to complete specific work assigned. To date, the Applicant has failed to

pay the negotiated retainer and failed to pay for the legal work performed on Applicant's behalf.

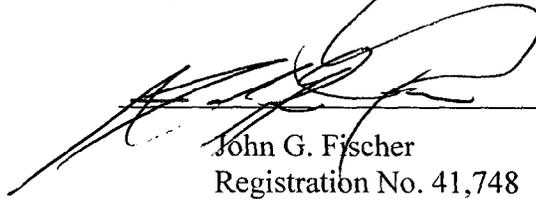
As per 37 C.F.R. §10.40(5) Applicant has knowingly and freely assented to termination of employment as evidenced by Applicant notifying me by email on May 23, 2003 of Applicant's intent to hire a new attorney during the week of May 25, 2003.

I have not received any office actions from the Patent and Trademark Office regarding this opposition and hence no response is due from Applicant or their attorney. Because of the inability to contact or communicate with the Applicant and Applicant's failure to pay fees, I sent Applicant notification by mail dated May 2, 2003 of my need to withdraw from this matter. All papers and property that relate to the proceeding and to which the Applicant is entitled have been delivered to the client. Attached to this request is proof of service of the request upon the Applicant and upon every other party to the proceeding. Additionally, I have concurrently filed an Agreed Motion to Extend Time pursuant to TBMP §509 and FRCP 6(b). For the above stated reasons, my withdrawal at this time will not prejudice Applicant's position and will afford Applicant sufficient time to seek substitute counsel on a timely basis.

Once the application for my withdrawal is approved, kindly direct all future correspondence regarding this application to the Applicant at its present principal place of business: 3606 Asset Street; Garland, TX 75042, and direct all telephone calls to Applicant at (214) 343-9069.

In conclusion, I cannot expend any further time on this application or continue to be responsible in any way therefor. For this reason, I earnestly solicit the Trademark Trial and Appeal Board's prompt consideration and approval of this application to withdraw.

Respectfully submitted,



John G. Fischer
Registration No. 41,748
STORM & HEMINGWAY, L.L.P.
8117 Preston Rd.
Suite 460
Dallas, Texas 75225
Phone (214) 292-8998
Fax (214) 292-8999

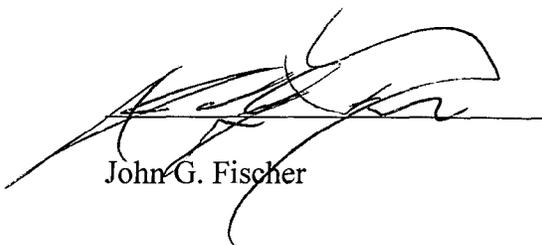
CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has on this date served a true and exact copy of the foregoing Notice upon the Applicant:

Mr. Fausto Zepeda
Dalmont Foods, LLC
3606 Asset Street
Garland, TX 75042

properly addressed and hand-delivered.

This 28 day of MAY, 2003.



John G. Fischer

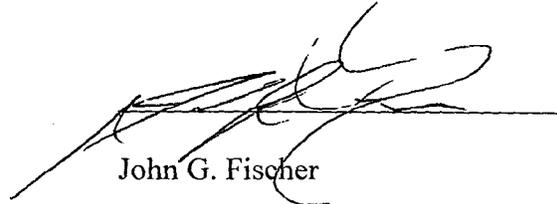
CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has on this date served a true and exact copy of the foregoing Notice upon the Attorney for Opposer, E. & J. Gallo Winery:

Craig W. Weinlein
Texas State Bar # 21095500
CARRINGTON, COLEMAN, SLOMAN
& BLUMENTHAL, L.L.P.
200 Crescent Court, Suite 1500
Dallas, Texas 75201
(214) 855-3000
FAX (214) 855-1333

properly addressed, Federal Express, next day delivery.

This 28 day of MAY, 2003.



John G. Fischer

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**AGREED ORDER RESCHEDULING CLOSING DATE FOR DISCOVERY AND
RESCHUDULING THE TESTIMONY PERIODS**

TO THE HONORABLE TRIAL AND APPEAL BOARD:

Upon stipulation of the parties to entry of this order, the Trademark Trial and Appeal Board hereby reschedules the closing date for delivery and reschedules the testimony periods in both of the above-captioned opposition proceedings, as follows:

Discovery Period to Close	November 7, 2003
30-Day Testimony Period for Party in Position of Plaintiff to Close	March 13, 2004
30-Day Testimony Period for Party in Position of Defendant to Close	May 12, 2004
15-Day Rebuttal Testimony Period for Plaintiff to Close	May 27, 2004

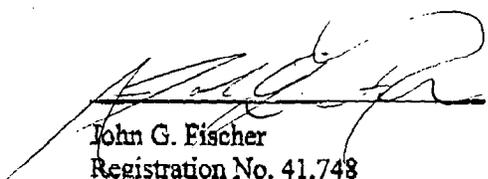


06-03-2003
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DATED this _____, 2003.

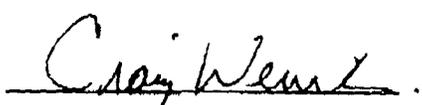
Trademark Trial and Appeal Board

AGREED AND APPROVED:



John G. Fischer
Registration No. 41,748
STORM & HEMINGWAY, L.L.P.
8117 Preston Rd.
Suite 460
Dallas, Texas 75225
Phone (214) 292-8998
Fax (214) 292-8999

Attorney for Applicant
Dalmont Foods, L.L.C.



Craig W. Weinlein
Texas State Bar #21095500
CARRINGTON, COLEMAN, SLOMAN
& BLUMENTHAL, L.L.P.
200 Crescent Court, Suite 1500
Dallas, Texas 75201
(214) 855-3000
FAX (214) 855-1333

Attorney for Opposer
E. & J. Gallo Winery