

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

King

Mailed: November 20, 2003

Opposition No. 91152288
Opposition No. 91153269

E. & J. GALLO WINERY

v.

DALMONT FOODS, L.C.C.

On November 10, 2003, opposer filed a motion for judgment and a copy of applicant's abandonment of its application Serial Nos. 76/313866 and 76/316680 under Trademark Rule 2.68.

However, the applicable rule is Trademark Rule 2.135, which 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 the applicant.

Accordingly, because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the oppositions are sustained and registration to applicant is refused.

By the Trademark Trial

and Appeal Board