

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF  
THE TTAB

Mailed:  
March 19, 2009  
jtw

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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American Flange & Manufacturing Co., Inc.  
v.  
Rieke Corporation

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Opposition No. 91153479  
to Application Serial No. 75869942  
filed on 12/13/1999

and

Opposition No. 91154680  
to Application Serial No. 75869343  
filed on 12/13/1999

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Corey M. Amron, William H. Oldach III and Peter A. Lusenhop  
of Vorys, Sater, Seymour & Pease LLP for American Flange &  
Manufacturing Co., Inc.

James A. Dimitrijevs and David B. Cupar of McDonald Hopkins  
Co., LPA for Rieke Corporation.

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Before Holtzman, Zervas and Walsh, Administrative Trademark  
Judges.

Opinion by Walsh, Administrative Trademark Judge:

We rendered a final decision in these consolidated  
opposition proceedings on June 5, 2006. *American Flange &  
Manufacturing Co. v. Rieke Corp.*, 80 USPQ2d 1397 (TTAB  
2006). That decision was appealed to the United States

District Court for the Northern District of Illinois. The District Court has remanded the case to us to consider the parties' settlement agreement and a related joint motion by the parties requesting (1) that we permit amendments to the applications, as specified below, (2) that we withdraw our decision of June 5, 2006, and (3) that we dismiss the oppositions and allow the applications, as amended, to proceed to registration.

With regard to the amendments to the applications, consistent with the terms of the settlement agreement, the parties request that we enter the following disclaimer in both Application Serial Nos. 75869942 and 75869343:

No claim is made to the exclusive right to use the hexagonal shape of the base of the closure apart from the mark as shown.<sup>1</sup>

We hereby grant the parties' joint motion. Accordingly, we order entry of the disclaimer in each of the applications, as specified above, we withdraw our decision of June 5, 2006, and we dismiss the opposition proceedings. *Robert A. Johnston Company v. Ward Foods, Inc.*, 165 USPQ 480 (TTAB 1970); *El Chico Cafe v. Senor Taco, Inc.*, 166 USPQ 159 (TTAB 1970). The registrations will issue in due course.

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<sup>1</sup> We have conformed the language suggested by the parties to the standard format used by the USPTO in all disclaimers. We also used the word "base" to be consistent with the existing wording in the applications.