

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

Baxley

Mailed: June 10, 2003

Opposition No. 91/155,355

Elizabeth Arden, Inc.

v.

Ananda C. Rutkoff

By the Trademark Trial and Appeal Board:

On March 5, 2003, the Board issued an order instituting this proceeding and forwarded therewith a copy of the opposer's notice of opposition.

Applicant did not file an answer, i.e., a responsive pleading that admits or denies the allegations set forth in each paragraph of the notice of opposition in compliance with Federal Rule of Civil Procedure 8(b), to the notice of opposition. Instead, on April 15, 2003, applicant responded to the notice of opposition by filing a paper wherein she stated that she was "dissolv[ing her] trademark claim to International Class 3" and that she was in acquiescence to opposer's opposition.¹ The Board construes this paper as an abandonment of involved application Serial No. 75/446,316.

¹ Although the paper does not include proof of service that complies with Trademark Rule 2.119(a), the Board notes that opposer address the paper in the motion for default judgment that

Opposition No. 155,355

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.²

it filed on April 21, 2003. Accordingly, the Board presumes that opposer received a copy of the paper and thus will consider it.

² Accordingly, the parties' subsequent filings are moot.