

5. In view of Paragraph 1 of this Answer, Applicant hereby voluntarily withdraws Application Serial No. 76/346,860, solely on the grounds that the color blue as applied to the entire top (cover) portion of the goods is not by itself distinctive of Applicant's identified goods.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be sustained on the ground of distinctiveness as conceded herein, and, in the interests of judicial economy, moves that the case be closed.

Respectfully submitted,

FOLEY & LARDNER LLP

Dated: October 24, 2005

By Mark J. Diliberti

Mark J. Diliberti
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
(414) 297-5581
Attorneys for Applicant

CERTIFICATE OF MAILING

I, Ardis J. Sitar, hereby certify that this document, pursuant to 37 C.F.R. § 1.8, is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1541, on this 24 day of October, 2005.

Ardis J. Sitar

CERTIFICATE OF SERVICE

I, Ardis J. Sitar, hereby certify that a copy of the Applicant's ANSWER TO NOTICE OF OPPOSITION AND VOLUNTARY WITHDRAWAL OF APPLICATION is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to

Roger P. Furey, Esq.
Katen Muchin Zavis Rosenman
1025 Thomas Jefferson Drive, N.W.
Suite 700, East Lobby
Washington, DC 20007

this 24 day of October, 2005, for service upon Opposer.

Ardis J. Sitar