

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

Tyson

Mailed: January 6, 2006

Opposition No. 91163291

Ropintassco Holdings, L.P.

v.

Sensys Medical

**Jyll S. Taylor, Attorney:**

On November 4, 2005, applicant filed a proposed amendment to its application Serial No. 78148562.

By the proposed amendment applicant seeks to delete the goods identified in Class 9 in their entirety and to amend the identification of the goods in Class 10 pursuant to a settlement agreement between the parties.

As regards the deletion of the goods identified in Class 9, the deletion of an entire class of goods in an application is, in effect, an abandonment of that application as to that class.

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 as to the goods identified in Class 9.

As regards the Class 10 goods, applicant seeks to change the identification of goods **from** "Medical diagnostic and monitoring apparatus; namely, apparatus for the non-invasive determination of analyte concentration by use of near-infrared radiation" **to** "Medical diagnostic and monitoring apparatus, excluding digital camera or imaging systems, namely, a blood/tissue monitoring system for the non-invasive determination of analyte concentration by use of near-infrared radiation."

Inasmuch as the amendment to the Class 10 goods is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

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