

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

alv/apb

Mailed: July 13, 2006

Opposition No. **91167945**

Laurice El Badry Rahme Ltd
d/b/a Laurice & Co.

v.

Asprey Holdings Limited

By the Trademark Trial and Appeal Board:

On June 5, 2006, opposer/counterclaim defendant Laurice El Badry Rahme Ltd d/b/a Laurice & Co. ("Laurice") filed a voluntary surrender of its pleaded Registration No. 2742675, which applicant sought to cancel by way of the counterclaim herein. Laurice's voluntary surrender did not include applicant/counterclaim plaintiff Asprey Holdings Limited's ("Asprey") written consent thereto.

After the commencement of a counterclaim, if the counterclaim defendant surrenders its involved registration under Trademark Act Section 7(e), 15 U.S.C. Section 1057(e), without the written consent of the counterclaim plaintiff, judgment will be entered against that counterclaim defendant.¹ See Trademark Rule 2.134(a).

¹ A counterclaim is the legal equivalent of a petition to cancel. See TBMP Section 313.01. Thus, the provisions of Trademark Rule 2.134(a) are applicable.

In view thereof, and because Asprey's written consent to the voluntary surrender is not of record, judgment is hereby entered against Laurice, the counterclaim is granted, and Registration No. 2742675 will be cancelled in due course. Inasmuch as the Board has entered judgment in Asprey's favor on the counterclaim, the motion for summary judgment in the counterclaim that Asprey filed on April 14, 2006 is moot.

This proceeding, however, will go forward on Laurice's opposition to registration of the mark in Asprey's involved application Serial No. 76570501. Proceedings are hereby resumed. Discovery and trial dates are reset as follows:

DISCOVERY PERIOD TO CLOSE:	11/3/2006
Plaintiff's 30-day testimony period to close:	2/1/2007
Defendant's 30-day testimony period to close:	4/2/2007
Plaintiff's 15-day rebuttal testimony period to close:	5/17/2007

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.