

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

Mailed: September 27, 2007

Opposition No. 91167991

The H.D. Lee Company, Inc.

v.

Maidenform, Inc.

**Frances S. Wolfson, Interlocutory Attorney:**

On September 20, 2007, at 2:00 p.m. eastern time, the Board convened a telephone conference between Paul J. Kennedy Esq. with Cara M. Kearney, Esq., counsel for opposer, Jennifer A. Prioleau, Esq., counsel for applicant, and the above-referenced Board attorney responsible for resolving interlocutory matters in this case.

During the telephone conference, the Board and the parties discussed the following pending motions: (1) opposer's motion (filed February 27, 2007) to extend its testimony period; and (2) opposer's motion (filed March 1, 2007) to compel applicant to respond to opposer's first set of interrogatories and requests for production of documents.<sup>1</sup> In addition, during the conference, applicant's counsel's orally moved to consolidate this proceeding with Opposition No.

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<sup>1</sup> The motions have both been fully briefed.

91168309. After careful consideration of all arguments, the Board denied opposer's motion to compel as untimely, deferred opposer's motion to extend pending decision on applicant's oral motion to consolidate, and granted counsel's request for time to brief the oral motion to consolidate.

On September 25, 2007, opposer filed a motion to withdraw this proceeding, without applicant's written consent.

Trademark Rule 2.106(c) provides that after an answer is filed, the opposition may not be withdrawn without prejudice except with the written consent of applicant.

In view thereof, and because the withdrawal was filed after answer, the opposition is dismissed with prejudice.<sup>2</sup>

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<sup>2</sup> Accordingly, opposer's motion to extend and applicant's motion to consolidate are now moot.