

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

MT/BB/LYKOS

Mailed: August 15, 2007

Opposition No. 91174365

Starbucks U.S. Brands, LLC,  
Starbucks Corporation d/b/a  
Starbucks Coffee Company

v.

Burgess, Robert K.

On July 24, 2007, the parties filed applicant's proposed amendment to its application Serial No. 78728596, with opposer's consent, and opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.<sup>1</sup>

By the proposed amendments, applicant seeks to delete all of the services identified in International Class 43 and amend the description of services listed in the remaining class, International Class 035.

First, the deletion of an entire class of services in an application is, in effect, an abandonment of that application as to that class. Accordingly, and pursuant to the parties' settlement agreement, Serial No. 78728596, as to the services

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<sup>1</sup> On June 19, 2007, the Board entered notice of default against applicant for failure to file an answer or a motion to extend time to file an answer. In view of the stipulated proposed amendment and motion to withdraw opposition, the notice of default is hereby vacated.

identified in Class 43, stands abandoned without prejudice.  
See TBMP § 602.01 (2d ed. Rev. 2004).

In International Class 35 applicant also seeks to change the identification of goods **from** "Retail discount store services in the field of general consumer merchandise, consumer electronics, housewares, cosmetics, jewelry, stationery, bags, games and playthings, eyewear, gifts, candy, sundries, and apparel" **to** "Retail discount store services in the field of general consumer merchandise, consumer electronics, housewares, cosmetics, jewelry, stationery, bags, games and playthings, eyewear, gifts, candy, sundries, and apparel and specifically excluding ground and whole bean coffee; cocoa; herbal and non-herbal teas; coffee, tea, cocoa, and espresso beverages, and beverages made with a base of coffee, tea, cocoa, and/or espresso, instant coffee and coffee substitutes; ready to drink coffee beverages."

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

The contingency in opposer's withdrawal having now been met, the opposition is dismissed without prejudice.

***By the Trademark Trial  
and Appeal Board***