

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

Tdc

Mailed: September 16, 2008

Opposition No. 91175334

Rhino Linings USA, Inc.

v.

AMCOAT INDUSTRIES, INC.

Linda Skoro, Interlocutory Attorney

On August 28, 2008, applicant filed a proposed amendment to its application Serial No. 78251735, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of goods in International Class 2 **from** "rubber-like paint products, namely, exterior coatings applied to exterior surfaces of buildings in a wide variety of colors which can be applied to all types of wood, masonry surfaces such as brick, block or cement as well as metal surfaces such as aluminum or steel" **to** "Ceramic paint products, namely, breathable exterior wall paint in which ceramic micro-spheres are suspended, applied to exterior surfaces of buildings, namely, walls and corresponding eaves, railings, window frames, and trim, in a wide variety of colors that can be applied to all types of wood, masonry surfaces such as brick, block or cement, as well as metal surfaces such as aluminum or

steel, and which are specifically not for use on vehicles, vehicle trailers, floors, furniture, commercial equipment, sidewalks, or any residential, commercial, public or industrial use other than exterior walls."

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).

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).

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to

supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>