

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

DUNN

Mailed: March 31, 2010

Opposition No. 91175363

Ronald Creatore

v.

Parker Intangibles LLC

**Elizabeth A. Dunn, Attorney (571-272-4267):**

On January 27, 2010, in response to the Board's January 21, 2010 show cause order, opposer filed, under a cover page titled "withdrawal of opposition", an unserved document titled "mutual release" executed February 17, 2009 by, among others, opposer and the Vice President of Parker Hannifin Corporation.<sup>1</sup>

The Board cannot treat this filing as a withdrawal of opposition for the following reasons:

- (i) It is unserved. To expedite this matter the Board will forward a copy of the unserved filing to applicant. However, no consideration will be given any response to this order which does not include a certificate of service. Trademark Rule 2.119.

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<sup>1</sup> Applicant's March 6, 2007 answer states that Parker Intangibles LLC is a wholly-owned subsidiary of Parker Hannifin Corporation.

Opposition No. 91175363

- (ii) In relevant part, the agreement provides that the release and discharge includes "opposition to the trademark application Performance Stainless filed by Parker Intangibles, Inc. with the PTO", and that upon the release of funds, opposer "will withdraw the objections to the application...". Thus, the agreement does not identify the opposition number or the application number, and the description identifies the wrong applicant (Parker Intangibles, Inc. and not Parker Intangibles, LLC).
  
- (iii) It is unclear from the parties' agreement whether applicant consents to the withdrawal of the opposition with or without prejudice. Trademark Rule 2.106(c) provides that after an answer is filed, the opposition may not be withdrawn without prejudice except with the written consent of applicant.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, opposer is allowed thirty days from the mailing date of this order in which to submit applicant's written consent to the withdrawal of the notice of opposition, with a certificate of service, failing which the opposition will be dismissed with prejudice.

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