

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

AM/csg

Mailed: March 2, 2009

Opposition No. 91182459

Ashley Furniture Industries,
Inc.

v.

Ashley Judd

On February 23, 2009, applicant filed a proposed amendment to its application Serial Nos. 77116839, 77116870, 77131841 and 77132209, without opposer's consent.

By the proposed amendment, applicant seeks to amend the involved applications to delete the Class 20 and 24 goods in their entirety, which as applicant has noted, are the only classes in the multi-class application that are opposed in this opposition.¹ Classes 3, 9, 14, 16, 18, 21 and 25 in the involved applications remain active.

If an applicant files a request to amend the

¹ Specifically, applicant seeks to delete Class 20 "Furniture, cabinets, mirrors and picture frames, pillows, chair pads, window blinds, window shades, closet organizers comprised of shelves and storage racks, curtain hardware, namely, shower curtain rings, curtain rings, and finials; sleeping bags, and key fobs not of metal" and Class 24 "Bed sheets, mattress pads, pillow cases, pillow shams, comforters, quilts, bed spreads, bed skirts, duvets, comforter covers, bed blankets, afghans, towels, beach towels, shower curtains, curtains and draperies, tables cloths not of paper, cloth napkins, textile placemats, throws, and upholstery fabrics.

application to delete an opposed class in an opposition to an application having multiple classes, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135.

Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against applicant.

In view thereof, and because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant with respect to Classes 20 and 24 of opposed applications serial nos. 77116839, 77116870, 77131841 and 77132209, the opposition is sustained with respect to Classes 20 and 24 of the opposed applications, and registration to applicant is refused with respect to Classes 20 and 24 of the opposed applications.

Application Serial No. Serial Nos. 77116839, 77116870, 77131841 and 77132209 will move forward to registration with respect to unopposed Classes 3, 9, 14, 16, 18, 21 and 25.

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