

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

dmd

Mailed: April 22, 2010

Opposition No. 91183098

Valentino S.p.A.

v.

VanderVeer, LLC,

On February 17, 2010, applicant filed a proposed amendment to its application Serial No. 77277765, via the USPTO's TEAS online filing system,<sup>1</sup> without opposer's consent, and without proof of service on opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of the amendment is forwarded herewith to opposer's counsel. Notwithstanding, strict compliance with Trademark Rule 2.119 is required by applicant in all future papers filed with the Board.

By the proposed amendment applicant seeks to amend the identification of goods by deleting, in its entirety, the goods in International Class 03, the class of goods that is subject to the instant opposition.<sup>2</sup>

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<sup>1</sup> Inasmuch as the Board has jurisdiction over an application that is involved in an inter partes proceeding, the applicant should have filed its amendment via the Board's online filing system (ESTTA). See Trademark Rule 2.133(a).

<sup>2</sup> Applicant's proposed amendment to its identification of goods leaves unchanged the recitation of goods in International Classes 5 and 44, which are not subject to the instant opposition.

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, 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. See TBMP §602.01. Trademark Rule 2.135 provides as follows:

After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. The written consent of an adverse party may be signed by the adverse party or by the adverse party's attorney or other authorized representative.

In view thereof, and because opposer's written consent to the abandonment of Class 3 goods is not of record, judgment is hereby entered against applicant with regard to the goods in Class 3, the opposition is sustained and registration to applicant in Class 3 is refused.

Application Serial No. 77277765 will proceed to registration with regard to the goods identified therein in classes 5 and 44.

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