

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

vb

Mailed: January 13, 2011

Opposition No. 91190654

OMS Investments, Inc.

v.

Hidden Creations dba Gail E.
Smith¹

On January 7, 2011, applicant filed an abandonment of its application Serial No. 77520947 with prejudice under Trademark Rule 2.68.²

However, the applicable rule is Trademark Rule 2.135, which 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 the applicant.

Accordingly, because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.

¹ The Board notes that the caption to the institution order did not include the wording "dba Gail E. Smith" as part of applicant's name. The caption of this proceeding is updated to reflect applicant's name as "Hidden Creations dba Gail E. Smith".

² Applicant's abandonment does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said abandonment is forwarded herewith to counsel for opposer.

*By the Trademark Trial
and Appeal Board*

