

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

nmt

Mailed: October 19, 2011

Opposition No. 91201183

Whataburger Partnership

v.

Franco's Pizza, LLC

On October 19, 2011, applicant filed an abandonment of its application Serial No. 85178487 under Trademark Rule 2.68.¹

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 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*