

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

vw

Mailed: April 16, 2013

Opposition No. 91209488

Top Tobacco L.P.

v.

Gail A. Halim DBA Gail's
Tobacco & Gas Outlet

On April 12, 2013, applicant filed an abandonment of its application Serial No. 85716419 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.

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

¹ Applicant's submission fails to indicate proof of service on opposer, as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said filing can be viewed at: <http://ttabvue.uspto.gov/ttabvue/v?pno=91209488&pty=OPP&eno=4>.