

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

GMM/DMD

Mailed: April 22, 2015

Opposition No. 91212950
(Parent)

Opposition No. 91215647

McDonald's Corporation

v.

McFit GmbH

International Class 32 Deleted from Application Serial No. 79129412

Application Serial No. 79129412, one of the opposed applications in this consolidated opposition proceeding,¹ is a request for extension of protection to the United States filed pursuant to Trademark Act § 66(a), 15 U.S.C. § 1141f(a).

On July 4, 2014, the International Bureau (“IB”) transmitted to the USPTO notification of a “Partial Ceasing of Effect of Basic Registration” in International Registration No. 1158393, upon which the involved extension of protection is based. The limitation deleted International Class 32 in its entirety from the underlying international registration. The limitation was effective on October

¹ Application Serial No. 79129412 is the subject of Opposition No. 91215647, filed on March 28, 2014 and subsequently consolidated with Opposition No. 91212950 per Board order dated May 15, 2014.

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21, 2013, prior to commencement Opposition No. 91215647, but was not recorded by the IB until June 17, 2014. The IB notified the USPTO of the limitation on July 4, 2014, and on July 24, 2014 the USPTO entered the limitation and deleted International Class 32 from application Serial No. 79129412. Pursuant to Trademark Rule 7.30,

When the International Bureau notifies the Office of the cancellation or expiration of an international registration, in whole or in part, the Office shall cancel, in whole or in part, the corresponding pending or registered extension of protection to the United States. The date of cancellation of an extension of protection or relevant part shall be the expiration of the corresponding international registration or relevant part.

In view thereof, the extension of protection is hereby cancelled with respect to International Class 32, effective October 21, 2013.

Opposition dismissed as a nullity

Opposition No. 91215647 commenced on March 28, 2014, after the effective date of the limitation of the underlying international registration that formed the basis for the extension of protection but prior to notification to the USPTO by the IB. If a 66(a) application is abandoned in whole or in part as the result of cancellation of some or all of the underlying international registration, any opposition that is filed on or after the date of the cancellation will be dismissed as a nullity and the opposition fee will be refunded. *See* TBMP §218 (2014). The

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abandonment of an application that is not the subject matter of an inter partes proceeding is without prejudice to the applicant.

In view thereof, the effective date of abandonment of International Class 32 of application Serial No. 79129412 being prior to the commencement of this opposition proceeding, the application stands abandoned with respect to International Class 32 and the opposition as to that class is dismissed as a nullity. The proceeding will go forward in the remaining opposed classes. Discovery and trial dates remain as set.