

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

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Mailed: December 14, 2015

Opposition No. 91214312

Diageo Brands B.V.

v.

Midway Trading Corp.

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

On November 19, 2015, Applicant filed an abandonment of its application Serial No. 85834409 with prejudice and withdrawal with prejudice of its counterclaim.<sup>1</sup>

Trademark Rule 2.135 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 Applicant.

In view thereof, the counterclaim is withdrawn with prejudice, and because Opposer's written consent to the abandonment is not of record, judgment is hereby entered against Applicant; the opposition is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.

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<sup>1</sup> 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. A copy of the abandonment can be viewed using TTABVUE at <http://ttabvue.uspto.gov>.