

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

WMW/DMD

Mailed: April 2, 2014

Opposition No. 91214548

Spy Optic Inc.

v.

Spin Master Ltd.

By the Trademark Trial and Appeal Board

On March 31, 2014, applicant filed a proposed amendment to its application Serial No. 77314876.

By the proposed amendment applicant seeks to change the identification of goods by deleting International Classes 9, 12, and 25 from the application.

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135.

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, and because opposer's written consent to the abandonment is not of record, judgment is entered against applicant, the opposition is sustained and registration with respect to International Classes 9, 12 and 25 is refused.¹

Accordingly, application Serial No. 77314876 stands abandoned with respect to Classes 9, 12 and 25, and the opposition is dismissed without prejudice with respect to Classes 16, 18, 20, 24 and 41 in the involved application.

Application Serial No. 77314876 will proceed to issuance of a notice of allowance solely with respect to International Classes 16, 18, 20, 24 and 41.

¹ The Board notes that the goods and services in International Classes 16, 18, 20, 24 and 41 were not subject to this proceeding.