

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

nmt/gcp

Mailed: January 27, 2015

Opposition No. 91216681

*Tyson Refrigerated Processed Meats,
Inc.*

v.

Aseptia, Inc.

**George C. Pologeorgis,
Interlocutory Attorney:**

On January 20, 2015, Applicant filed a proposed amendment to its application Serial No. 85849875, with Opposer's written consent.

By proposed amendment, Applicant seeks to change the identification of goods by deleting, in its entirety, the goods identified in International Class 29, i.e., one of the two the class of goods that is subject to the instant opposition.¹

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. *See* TBMP §602.01. Trademark Rule 2.135 provides as follows:

¹ Applicant's proposed amendment to its identification of goods leaves unchanged the recitation of goods in International Class 40.

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After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. The written consent of an adverse party may be signed by the adverse party or by the adverse party's attorney or other authorized representative.

In view thereof, and because Opposer's written consent to the abandonment of the International Class 29 goods is of record, Applicant's subject application is deemed abandoned with regard to the goods identified in International Class 29.

If the amendment resolves this proceeding, Opposer is allowed until **thirty (30) days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended in International Class 40. *See* Trademark Rule 2.106(c).²

Proceedings are otherwise suspended.³

² Applicant's change of correspondence address and appearance of counsel filed January 21, 2015 and January 26, 2015 are noted. The Board's records have been updated accordingly.

³ Applicant's consented motion for a suspension of time filed January 26, 2015 is noted. The Board will address the request upon receipt of opposer's response to the Board's order above.