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Filing date: **05/04/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217181
Party	Defendant Bret Aiken
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Signature	/Mark D. Klein/
Date	05/04/2016
Attachments	91217181 - Proposed Amendment and Withdrawal of Opposition.pdf(1520446 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MATTHEWS RESOURCES, INC.	:	Opposition No. 91217181
	:	
Opposer	:	Applicant: Bret Aiken
	:	
	:	Mark: DIAMOND SEAL SYSTEMS FOREVER BRILLIANT
	:	
v.	:	Application Serial No. 85/363,491
	:	
BRET AIKEN	:	Date of Publication: March 4, 2014
	:	
Applicant	:	Filed: July 5, 2011

**PROPOSED AMENDMENT TO APPLICATION IDENTIFICATION AND
STIPULATED WITHDRAWAL OF OPPOSITION WITHOUT PREJUDICE**

Applicant Bret Aiken, a California resident, having an address at 1807 Carnegie Avenue, Santa Ana, California 92705, and Opposer Matthews Resources, Inc. (aka Matthews International Corporation), a Pennsylvania corporation, having an address at Two NorthShore Center, Pittsburgh, Pennsylvania 15212, by and through their duly authorized undersigned counsel and in accordance with the agreement and consent of the parties' as set forth in that certain COEXISTENCE AGREEMENT dated April 18, 2016 ("Agreement"), the parties hereby stipulate, pursuant to 37 C.F.R. §§2.106(c) and 2.133(a) and TBMP § 514.02, as follows:

1. Applicant agrees to amend its recitation of goods by modifying the identification of goods to exclude cemetery memorial products and respectfully requests that the identification of goods in Application Serial No. 85/363,491 for the mark DIAMOND SEAL SYSTEMS FOREVER BRILLIANT, be amended to read as follows:

“Hand-applied sealer coatings for hard surfaces, excluding cemetery memorial products, namely, glass, granite, stone, porcelain, stainless steel and painted surfaces, for use in homes, hospitals, hotels, commercial buildings, and transportation.”

The parties agree to the above proposed amendment to the identification of goods pursuant to the Joint Motion to Amend Recitation of Goods in Application with Consent, attached hereto as Exhibit A.

Accordingly, the parties agree as set forth in the Stipulation for Withdrawal of Opposition with Consent, attached as Exhibit B, and contingent upon approval by the Board of Applicant’s above-referenced amendment, respectfully request that the Board withdraw this proceeding without prejudice.

Respectfully submitted,

/Mark D. Klein/
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*Attorney for Applicant,
Brett Aiken*

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

MATTHEWS RESOURCES, INC.

Opposer,

v.

BRET AIKEN

Applicant.

Opposition No. 91/217,181

Mark: DIAMOND SEAL SYSTEMS
FOREVER BRILLIANT

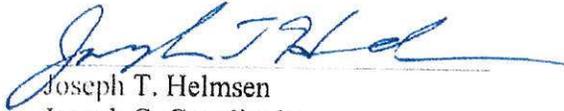
Application Ser. No.: 85/363,491

JOINT MOTION TO AMEND RECITATION OF GOODS IN APPLICATION WITH CONSENT

Pursuant to 37 C.F.R. § 2.133(a) and TBMP 514.02, Applicant hereby moves to amend the recitation of goods in its application for registration of the mark DIAMOND SEAL SYSTEMS FOREVER BRILLIANT (Serial No. 85/363,491) in International Class 2 to the following:

Hand-applied sealer coatings for hard surfaces, excluding cemetery memorial products, namely, glass, granite, stone, porcelain, stainless steel and painted surfaces, for use in homes, hospitals, hotels, commercial buildings, and transportation.

Counsel for Opposer has consented to the referenced amendment. Applicant hereby requests that the Board enter the amendment to the Application. Please contact the undersigned with any questions.



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Attorneys for Opposer

Dated: April 18, 2016



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Attorney for Applicant

Dated: April 19, 2016

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

MATTHEWS RESOURCES, INC.

Opposer,

v.

BRET AIKEN

Applicant.

Opposition No. 91/217,181

Mark: DIAMOND SEAL SYSTEMS
FOREVER BRILLIANT

Application Ser. No.: 85/363,491

STIPULATION FOR WITHDRAWAL OF OPPOSITION WITH CONSENT

Opposer, by its attorneys, hereby withdraws without prejudice Opposition No. 91/217,181 to Application Serial No. 85/363,491, and Applicant hereby consents to said withdrawal without prejudice.



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Dated: April 18, 2016



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Attorney for Applicant

Dated: April 19, 2016

ELECTRONIC FILING CERTIFICATE

I hereby certify that the PROPOSED AMENDMENT TO APPLICATION IDENTIFICATION AND STIPULATED WITHDRAWAL OF OPPOSITION WITHOUT PREJUDICE is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (ESTTA) on this 4th day of May, 2016.

/Mark D. Klein/

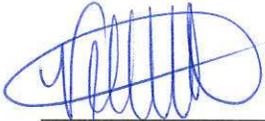
Attorney for Applicant, Bret Aiken

CERTIFICATE OF MAILING

I hereby certify that on May 4, 2016, a true and correct copy of the PROPOSED AMENDMENT TO APPLICATION IDENTIFICATION AND STIPULATED WITHDRAWAL OF OPPOSITION WITHOUT PREJUDICE was served via U.S. First Class Mail, postage prepaid, upon the following:

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