

MC

Mailed: February 17, 2015

Opposition No. 91218397

Chattanooga Bakery, Inc.

v.

Granny's Bakery, LLC

**Robert H. Coggins,
Interlocutory Attorney:**

On December 8, 2014, applicant filed a consented motion to amend application Serial No. 86081842, to expressly abandon application Serial No. 86081851, and to contingently dismiss the opposition with prejudice.¹

Amendment to 86081842

By the proposed amendment applicant seeks to amend the identification of goods in application Serial No. 86081842 from “pies” to “pies made from a recipe including moonshine, excluding marshmallow pies.” Inasmuch as the amendment is limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, the motion to amend is granted only to the extent that this amendment is approved and entered. *See* Trademark Rule 2.133(a).

¹ Applicant’s change of correspondence address (filed October 29, 2014) is noted and entered.

Abandonment of 86081851

Applicant asks that “application serial number 86081851 [] be expressly abandoned.” The abandonment of an application subject to an opposition proceeding is governed by Trademark Rule 2.135 (*see* TBMP § 602.01 (2014)) which provides that the adverse party’s written consent must be provided or judgment shall be entered against the applicant. In the instant motion, opposer’s signature (showing opposer’s written consent) is ineffective because it was signed “w/ permission” and does not appear to have been personally made by opposer’s counsel. An electronic signature must be personally entered by the signatory. *See* Trademark Rule 2.193(c)(1); TMEP § 611.01(c) (“...typing the electronic signature of another person is not a valid signature by that person.”).

Inasmuch as opposer’s written consent to the abandonment is ineffective and, in view thereof, not of record, but applicant has alleged opposer’s consent, applicant is allowed until **thirty** days form the mailing date of this order in which to provide opposer’s written consent to the abandonment, failing which judgment will be entered against applicant as to application Serial No. 86081851 and the opposition will be sustained as to application Serial No. 86081851.

Contingent Dismissal Not Effected

The contingency in opposer’s withdrawal of the opposition not having been met, the opposition is not dismissed.

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Suspension

Proceedings are suspended pending applicant's provision of opposer's written consent (via a valid signature) to the abandonment of application Serial No. 86081851.