

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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lg/jk

Mailed: August 29, 2015

Opposition No. 91220816

Henkel Corporation

v.

Oil Mist Australia Pty Ltd

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

On July 23, 2015 and August 10, 2015, Applicant filed a proposed amendment to its application Serial No. 79139923 with Opposer's consent, and Opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment Applicant seeks to delete the goods identified in International Class 4.

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:

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, application Serial No. 79139923 stands abandoned with respect to International Class 4 only, and the opposition is dismissed without prejudice. *See* Trademark Rules 2.106(c) and 2.135.<sup>1</sup>

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<sup>1</sup> Applicant's proposed amendment leaves unchanged the identification of goods in International Class 7.