

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

GM/vv

Mailed: November 23, 2015

Opposition No. 91222134

InterDesign, Inc.

v.

E & E Co., Ltd.

David Mermelstein, Administrative Trademark Judge:

On August 13, 2015, Applicant filed a proposed amendment to its application Serial No. 86262516, indicating that the proposed amendment comports with the parties' settlement agreement.

By the proposed amendment Applicant seeks to delete the goods set forth in International Class 21 in their entirety.¹ Because the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), it ordinarily would be acceptable if consented to by Opposer. *See* Trademark Rule 2.133(a).

However, in an opposition to an application having multiple classes, if an applicant files a request to amend the application to delete an opposed class in its entirety, 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 (2015).

¹ International Class 16, 20 and 24 of the subject applicant remain unchanged.

Trademark Rule 2.135 provides that “[a]fter the commencement of an opposition ... 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.”

Because Applicant indicated that the proposed amendment is offered in accordance with the parties’ settlement agreement, and because it is unclear whether Opposer consents to the amendment,² Applicant is allowed until **THIRTY DAYS** from the mailing date of this order in which to provide Opposer’s *written consent*³ to the abandonment of Class 21, failing which, judgment will be entered against Applicant with respect to Class 21 of the subject application.

Additionally, if the amendment resolves this proceeding, Opposer is allowed until **THIRTY DAYS** from the mailing date of this order in which to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c).

If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings are otherwise **SUSPENDED**.

² Although Applicant, in the certificate of service accompanying the motion, states that “[a] copy of the foregoing *motion to amend application with consent* was served [on counsel for Opposer],” the body of the motion does not state that Opposer has consented to the proposed amendment. In any event, Rule 2.135 requires Opposer’s *written consent*.

³ The written consent of an adverse party may be signed by either the party or its attorney.