

ESTTA Tracking number: **ESTTA713949**

Filing date: **12/10/2015**

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

Proceeding	91225059
Party	Plaintiff Unimin Corporation
Correspondence Address	Gregory S. Vickers Rankin, Hill & Clark LLP 23755 Lorain Road, Suite 200 North Olmsted, OH 44070 UNITED STATES docketing@rankinhill.com, martin@rankinhill.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Gregory S. Vickers
Filer's e-mail	vickers@rankinhill.com, docketing@rankinhill.com, martin@rankinhill.com
Signature	/Gregory S. Vickers/
Date	12/10/2015
Attachments	UNM- 39562_MOTION_TO_AMEND_AND_CONTINGENT_STIPULATED_WITHDRA WAL.pdf(83704 bytes)

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

In the Matter of:
Trademark Application Serial No. **86/618479**
Filed: May 4, 2015
For the Mark: **ELEMENT FIVE & Design**
Published in the *Official Gazette* on September 29, 2015
Opposer's Reference No. UNM-39562

Unimin Corporation)	
)	
Opposer)	
v.)	Opposition No. 91225059
)	Serial No. 86618479
Specification Products, LLC)	
)	
Applicant)	
)	

**MOTION TO AMENDED AND
CONTINGENT STIPULATED WITHDRAWAL**

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451
Attention: TTAB

Unimin Corporation (hereinafter "Opposer") and Specification Products, LLC (hereinafter "Applicant") have reached a settlement to resolve this opposition based on an agreed upon amendment to the listed goods in Trademark Application Serial No. 86/618479. Accordingly, Applicant hereby amends the recitation of goods in its Trademark Application Serial No. 86/618479 as is set forth below and Opposer hereby consents to this amendment as is represented by the signatures set forth below. The amendment is as follows:

International Class 1 Goods

Chemical compounds for curing concrete; Concrete additives; Concrete admixtures; all goods excluding lime, calcined lime, hydrated lime and quicklime.

This amendment to the recitation of goods is permissible as the Applicant is limiting the goods to specifically exclude certain products rather than expanding the goods.

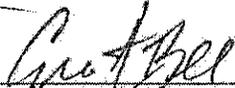
Additionally, it is requested that the Board suspend further action in this proceeding pending the Board's decision on Applicant's Motion to Amend.

Contingent on the acceptance and entry of Applicant's amendment above, Opposer hereby withdraws the above-identified opposition without prejudice. Applicant has consented to this withdrawal without prejudice as is represented by the signature set forth below.

By: 

Gregory S. Vickers
Reg. No. 45180
Rankin, Hill & Clark LLP
23755 Lorain Road, Suite 200
North Olmsted, Ohio 44070-2224
(440) 614-0604

Attorney for Opposer

By: 

Greg Bell
Specification Products, LLC
7 Launch Way Ste 510
Fishers, Indiana 46038-1559
317-371-2081

Applicant

Dated: 12/10/2015

Dated: 12.10.2015

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)	
Applicant)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **MOTION TO AMENDED AND CONTINGENT STIPULATED WITHDRAWAL** was served on:

Mr. Greg Bell
Specification Products, LLC
7 Launch Way Ste 510
Fishers, Indiana 46038-1559
Phone Number: 317-371-2081

by first class mail, postage prepaid, on 12/10/2015.

By /Gregory S. Vickers/