

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

RK

Mailed: August 30, 2016

Opposition No. **91226778**

Whole Foods Market IP, L.P.

v.

Joseph Rocha

By the Trademark Trial and Appeal Board:

On August 29, 2016, Applicant filed a proposed amendment to its involved **Application Serial No. 86666613**, with Opposer's written consent, and Opposer's withdrawal of the opposition with prejudice with Applicant's written consent and contingent upon the Board's approval and entry of the proposed amendment.

By the proposed amendment, Applicant seeks to delete the goods in International Class 29 in their entirety and to amend the identification of goods in International Class 3 as follows (amendment in bold type):

From: Cosmetic preparations; Hair conditioner; Hand cleaners; Hand cream; Shampoos; in International Class 3.

To: Cosmetic preparations; Hair conditioner; Hand cleaners; Hand cream; Shampoos, **all of which contain avocado oil**; in International Class 3.

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. TBMP § 605.03(b). In view thereof, **Application Serial No. 8666613 stands abandoned as to the opposed goods in International Class 29.**

As to the Class 3 goods, inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because Opposer consents thereto, it is **APPROVED** and entered. *See* Trademark Rule 2.133(a).

The contingency in Opposer's withdrawal having now been met, **the opposition is DISMISSED with prejudice and the involved application, as amended, will proceed under Class 3 only.**

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