UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

cv/jk

Mailed: August 11, 2013

Cancellation No. 92056702

Xan Confections, Inc.

v.

TA-XAN AG

On June 3, 2013, petitioner filed a withdrawal without prejudice of its petition to cancel according to the terms of a settlement agreement between the parties. Pursuant to the settlement, registrant has agreed to amend its Registration No. 4014834 in International Class 30 only.

The record indicates that registrant filed with the Post Registration Office a proposed amendment (Section 7 Request Form) with the required fee and declaration.[1] Registrant's amendment was approved and entered on July 11, 2013.

An amendment of any application or registration which is the subject of an inter partes proceeding before the Board is

[1] Registrant's request does not indicate proof of service of a copy of same on counsel for petitioner, as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said request is forwarded herewith to counsel for petitioner. Strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board. The Board may decline to give consideration to any paper or motion which does not include proof of service.

governed by Trademark Rule 2.133. The amendment should have been filed with the Board inasmuch as the Board has jurisdiction over the registration involved in a cancellation proceeding; the amendment should not have been filed with the Post Registration Office.

Upon review, the Board finds that the amendment complies with all of the procedural requirements of Trademark Rule 2.173, it is clearly limiting in nature, and petitioner consents thereto. Accordingly, it is approved. *See* Trademark Rule 2.133(a).

The contingency in petitioner's withdrawal having now been met, the petition to cancel is dismissed without prejudice.

By the Trademark Trial and Appeal Board