

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

RA

Mailed: August 20, 2015

Cancellation No. 92060942

Cowboy NSI, LLC

v.

Vitacost.com Inc.<sup>1</sup>

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

On July 24, 2015, Respondent filed a document entitled voluntary surrender of its Registration Nos. 2470724 and, 2491928 under Section 7(e) of the Trademark Act, with Petitioner's written consent. Upon further review of the filing it is noted that the parties' have filed a copy of the parties' settlement agreement.<sup>2</sup>

Registrant is advised that the mere filing of the settlement agreement is not sufficient for the Board to take action in this proceeding. If the parties have settled and wish the Board to take action on this cancellation proceeding, a proper motion should be filed stating the desired disposition of the proceeding.

See TBMP 605.03.

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<sup>1</sup> Respondent's communication fails to indicate proof on Petitioner as required by Trademark Rule 2.199. In order to expedite this matter, a copy of this paper can be viewed at :

<http://ttabvue.uspto.gov/ttabvue/v?pno=92060942&pty=CAN&eno=12>

<sup>2</sup> While the parties filed a copy of their settlement agreement, the Board prefers a stipulation signed by both parties stating the desired disposition of the proceeding (*e.g.*, "It is hereby stipulated that the petition to cancel be dismissed without prejudice," "It is hereby stipulated that the petition to cancel be dismissed with prejudice."). See TBMP § 605.03(a).

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Accordingly, proceedings herein are suspended and registrant is allowed **thirty days** from the mailing date of this order to file a proper motion, failing which, proceedings will be resumed and the appropriate trial dates will be reset.