

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Hassan/Lykos

Mailed: August 21, 2002

Opposition No. 91114603

PHAT FASHIONS LLC

v.

PHAT GAME ATHLETIC APPAREL

On June 16, 2002, the Board sent an inquiry to the parties regarding the status of the civil action that occasioned the suspension of this proceeding.

On June 25, 2002, applicant filed an express abandonment of its application Serial No. 75/373,802 with prejudice, under Trademark Rule 2.68, pursuant to a decision rendered on March 29, 2002 in the United States District Court for the Eastern District of California Civ No. 2-01-171 LKK/PAN granting plaintiff's motion for summary judgment.

On July 12, 2002, opposer, responding to the Board's status inquiry, enclosed a copy of the court's decision in the civil litigation. Opposer noted that pursuant to the terms of the court's order, applicant had executed an express abandonment of its application. Consistent therewith, opposer requested that the Board enter judgment against applicant in the opposition proceeding herein.

While the court's order is silent regarding the disposition of the opposition proceeding herein, Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant.

Accordingly, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.

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