

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

Johnson

Mailed: October 15, 2002

Opposition No. 91121396

BARBARA MCFADDEN A.K.A.
SPYCE

v.

SPICE GIRLS LIMITED

LaToya C. Johnson, Paralegal:

On August 22, 2002, opposer filed a withdrawal of the opposition and a copy of the parties' settlement agreement.¹

However, Trademark Rule 2.106(c) provides that after an answer is filed, the opposition may not be withdrawn without prejudice except with the **written** consent of applicant. It is unclear from the parties' settlement agreement whether applicant consents to the withdrawal of the opposition with or without prejudice.

¹ 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 (i.e., "It is hereby stipulated that the opposition be sustained," "It is hereby stipulated that the opposition be dismissed with prejudice."). See TBMP § 605.03(a). In addition, opposer's withdrawal does not indicate proof of service of a copy of same on counsel for applicant as required by Trademark Rule 2.119. In

Opposition No. 121,396

In view thereof, opposer is allowed thirty days from the mailing date of this order in which to submit applicant's written consent to the withdrawal, failing which the opposition will be dismissed with prejudice.

order to expedite this matter, a copy of said withdrawal is forwarded herewith to counsel for applicant.