

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

Tyson

Mailed: September 7, 2005

Opposition No. 91152794

VALENT U.S.A. CORPORATION

v.

OMS INVESTMENTS, INC.

Monique Tyson, Paralegal:

On March 17, 2005, the parties filed applicant's proposed amendment to its application Serial No. 76291958, with opposer's consent, and opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment.

By the proposed amendment applicant seeks to change the identification of goods as follows (wording in bold lettering constitutes additional wording added by the proposed amendment):

Class 1: Lawn and garden fertilizer, plant food, fertilizer in the form of spikes for houseplants, outdoor plants, trees and shrubbery **all the aforesaid goods intended for domestic use;** peat, compost, humus, loam and manure **all for domestic use;** potting soil, soil conditioners, soil amendments and growing media for plants **all for domestic use.**

Class 5: Herbicides for domestic use.

Class 21: Fertilizer mixers and sprayers attached to garden hoses **for domestic use.**

Class 31: Flowers, vegetable, plant and grass seed **for domestic use; live plants for domestic use.**

Class 42: Providing information via the internet on lawn care and landscape gardening, including how to use and apply fertilizers, herbicides, fungicides, insecticides, grass seed, flower seed, garden seeds, plant food, potting soil, soil conditioners and amendments and ground cover; providing information via the internet on the use of equipment of the lawn and garden; providing advice and information via the internet on flowers and their care, **all information for the above services related to domestic use.**

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), 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 without prejudice.

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