

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

em/Butler

Mailed: March 17, 2005

Opposition No. 91161000

Apple Physical therapy, P.S.

v.

SelectMark, Inc.

On August 6, 2004, applicant filed an abandonment of its application Serial No. 76529831 under Trademark Rule 2.68.

However, the applicable rule is Trademark Rule 2.135, which 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, because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.<sup>1</sup>

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

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<sup>1</sup> The notice of default issued on December 22, 2004, was issued in error and is hereby vacated.