

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

gcp/jk

Mailed: July 18, 2008

Opposition No. 91161028
Cancellation No. 92044444

FINANZ ST. HONORE, B.V.

v.

JOHNSON & JOHNSON

George C. Pologeorgis, Interlocutory Attorney:

On January 10, 2008, applicant/counterclaim-petitioner filed in Opposition 91161028 a motion to withdraw its counterclaim petition to cancel U.S. Registrations 1199240 and 1746723, opposer/counterclaim-respondent's pleaded registrations in that proceeding. On January 30, 2008, opposer/counterclaim-respondent filed in Cancellation No. 92044444 a surrender for cancellation of U.S. Registration 854850.¹ On February 4, 2008, the parties filed in Cancellation No. 92044444 a signed stipulation of dismissal, with prejudice, of Opposition No. 91161028 and "the counterclaims for cancellation filed by the Applicant in that

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proceeding." On March 7, 2008 the parties filed in Opposition No. 91161028 the same signed stipulation of dismissal, with prejudice, of Opposition No. 91161028 and "the counterclaims for cancellation filed by the Applicant in that proceeding."

In view thereof, Opposition No. 91161028 filed against Application Serial No. 78164712 is dismissed with prejudice, and the counterclaims for cancellation asserted therein against U.S. Registration Nos. 1199240 and 1746723 are dismissed with prejudice.

With respect to one of these consolidated proceedings, Cancellation No. 92044444, inasmuch as opposer/counterclaim-respondent filed therein a surrender for cancellation of Registration No. 854850, without the written consent of applicant/counterclaim-petitioner, and also filed therein a stipulation of dismissal, the record is unclear. Specifically, the record is unclear with respect to whether the parties seek judgment in favor of applicant/counterclaim-petitioner,² or seek to dismiss the cancellation in accordance

¹ Also included is an unsigned stipulation of dismissal, with prejudice, of Opposition No. 91161028 and "the counterclaims for cancellation filed by the Applicant in that proceeding."

² Trademark Rule 2.134(a) provides that if the respondent in a cancellation proceeding applies to cancel its involved registration under Section 7(e) without the written consent of every adverse party to the proceeding, judgment shall be entered against respondent.

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with the stipulation of dismissal.

In view thereof, the parties are allowed twenty days in which to submit to the Board a clarification of their intentions with respect to Registration No. 854850, failing which the Board will, pursuant to Trademark Rule 2.134(a), enter judgment against opposer/counterclaim-respondent with respect to Registration No. 854850 and will cancel said registration in due course.