

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

Jh/FSW

Mailed: May 5, 2008

Opposition No. 91172018

Menper Distributors Inc.

v.

ESTABLECIMIENTOS ANCALMO  
S.A. DE C.V.

On February 27, 2008, applicant and counterclaim plaintiff, Establecimientos Ancalmo S.A. de C.V., filed an abandonment of its application Serial No. 76605405, and a withdrawal of its counterclaim against Registration No. 2932141, in Opposition No. 91172018.

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 applicant.

Trademark Rule 2.114(c) provides that a petition to cancel may not be withdrawn without prejudice after the answer is filed except with the written consent of the registrant or its attorney. A counterclaim is the legal equivalent of a petition to cancel. TBMP § 313.01 (2d ed. rev. 2004).

In view thereof, and because opposer's written consent to the abandonment of the application and the withdrawal of the counterclaim is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused. The counterclaim against Registration No. 2932141 is dismissed with prejudice.

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