

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

ac/BUTLER

**Mailed: March 18, 2008**

**Opposition No. 91178524**

**Opposition No. 91180628**

**Oasis Stores Limited**

**v.**

**Food Pantry, Ltd.**

On March 4, 2008, the following papers were filed:

- 1) the parties' stipulated motion to amend applicant's application Serial No. 78900270 (Opposition No. 91180628) and to dismiss Opposition No. 91180628 contingent upon entry of the proposed amendment to the application;
- 2) applicant's abandonment of its application Serial No. 78900233 (Opposition No. 91178524) under Trademark Rule 2.68;<sup>1</sup> and
- 3) the parties' stipulated dismissal of Opposition No. 91178524.

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<sup>1</sup>Trademark Rule 2.68 is not applicable to abandonments of applications involved in Board proceedings. Instead, the applicable rule is Trademark Rule 2.135.

**Opposition No. 91180628**

By the proposed amendment applicant seeks to amend the identification of services in application Serial No. 78900270

**from**

retail store services featuring clothing, apparel and accessories, gift items, personal care products, and home décor products and accessories

**to**

retail stores located in Hawaii featuring gift items, personal care products and home décor products and accessories.

The proposed amendment is not acceptable because it effectively designates a geographic limitation by incorporating a defined geographic location in the proposed amended recitation of services. See Trademark Rule 2.133(c) ("Geographic limitations will be considered and determined by the Trademark Trial and Appeal Board only in the context of a concurrent use registration proceeding."). See also TBMP §514 (2d ed. rev. 2004).

Inasmuch as the parties are interested in settling this matter, they are allowed until **THIRTY DAYS** from the mailing date of this order in which to submit an acceptable amendment in accordance with settlement or to seek additional time for settlement purposes, failing which,

**Opposition Nos. 91178524 and 91180628**

appropriate dates will be reset for Opposition No. 91180628 only.

The contingency has not been met for the parties' stipulated dismissal of Opposition No. 91180628. Accordingly, consideration thereof is deferred.

***Opposition No. 91178524***

The March 4, 2008 contemporaneous filings with respect to Opposition No. 91178524 and application Serial No. 78900233 are construed together as the parties' desired disposition of Opposition No. 91178527.

Accordingly, application Serial No. **78900233** stands abandoned, and the Opposition No. **91178524** is dismissed without prejudice.<sup>2</sup> See Trademark Rules 2.106(c) and 2.135.

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

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<sup>2</sup> In view of the dismissal of Opposition No. 91178524 and the continued existence of Opposition No. 91180628, the proceedings are no longer consolidated. Any future correspondence with respect to Opposition No. 91180628 is to be filed in Opposition No. 91180628.