

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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General Contact Number: 571-272-8500

RK/emy

Mailed: July 28, 2015

Opposition Nos. **91208003 (parent)**
91214448

Red Bull GmbH

v.

Michael F. Ball

By the Trademark Trial and Appeal Board:

On June 30, 2015, Applicant/Counterclaim Petitioner (“Applicant”) filed an abandonment of its Application Serial Nos. 85400933, 85400941, 85400955, 85406652 and 85400948 without the written consent of Opposer/Counterclaim Respondent (“Opposer”).¹ Applicant further seeks to withdraw its counterclaim to cancel Registration No. 3939863.

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 the applicant.

In view thereof, and because Opposer's written consent to the abandonment is not of record, **judgment is hereby entered against**

¹ Applicant's amendment of June 8, 2015, is noted. However, as Applicant has intended this latest filing to supersede the earlier filing, the June 8 amendment has been given no consideration.

Applicant, the oppositions are sustained and registration to Applicant is refused.

As to Applicant's withdrawal of its counterclaim, Trademark Rule 2.114(c) provides that after an answer is filed, a petition for cancellation may not be withdrawn without prejudice except with the written consent of the respondent. Since the withdrawal of the counterclaim was filed after answer and without the written consent of Opposer, the counterclaim is **DISMISSED with prejudice.**

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