

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: May 19, 2015

Opposition No. 91218280

*Mya Saray, LLC*

v.

*Ibrahim Dabes dba Dabes Egyptian Imports*

**George C. Pologeorgis,  
Interlocutory Attorney:**

On January 20, 2015, Applicant filed a “consented” motion to amend the identification of goods of its involved application Serial No. 86025182. By the proposed amendment Applicant seeks to amend the identification of goods from “tobacco; smoking articles, namely, cigarettes, cigars, smoking pipes, and shishas” to “tobacco.”

By order dated January 26, 2015, the Board approved the “consented” motion to amend and allowed Opposer time in which to file a withdrawal of the opposition based upon the approved amendment.

On February 25, 2015, Opposer filed a response to the Board’s order maintaining that, based upon its previous communications with Applicant, it only provided consent to the amendment of the involved application if Applicant would also amend the identification of goods of a registration owned by Applicant and which is subject to a related proceeding involving the parties herein, namely, Cancellation

No. 92060249. Because Applicant never filed a corresponding motion to amend the identification of goods of the subject registration to Cancellation No. 92060249, Opposer, by way of its response, is effectively withdrawing its consent to the proposed amendment of the identification of goods concerning Applicant's involved application Serial No. 86025182, and requests that the Board withdraw its January 26, 2015, order.

On March 13, 2015, Applicant filed a response to Opposer's response contending that, based upon its own understanding regarding the parties' communications, Opposer did provide consent to its proposed amendment of the identification of goods of involved application in this matter without any condition that Applicant would also file a motion to amend the identification of goods of its registration subject to related Cancellation Proceeding No. 92060249.

Based on the foregoing, the Board finds that there has been a clear misunderstanding and/or miscommunication between the parties regarding the circumstances under which Opposer would provide its consent to Applicant's proposed amendment to its application Serial No. 86025182 which is subject to this opposition proceeding. In light of such miscommunication/misunderstanding, the Board construes Applicant's motion to amend filed on January 20, 2015 as an unconsented motion.

In view thereof, the Board's January 26, 2015, order is hereby **VACATED** and consideration of Applicant's motion to amend filed on January 20, 2015 (which the Board now construes as an unconsented motion to amend) is hereby deferred until

final decision or until the case is decided upon summary judgment.<sup>1</sup> See TBMP § 514.03 (2014).

**Trial Schedule**

In light of the delay in considering the parties' filings regarding Applicant's motion to amend, trial dates are reset as follows:

Discovery is open.

Expert Disclosures Due	<b>9/20/2015</b>
Discovery Closes	<b>10/20/2015</b>
Plaintiff's Pretrial Disclosures	<b>12/4/2015</b>
Plaintiff's 30-day Trial Period Ends	<b>1/18/2016</b>
Defendant's Pretrial Disclosures	<b>2/2/2016</b>
Defendant's 30-day Trial Period Ends	<b>3/18/2016</b>
Plaintiff's Rebuttal Disclosures	<b>4/2/2016</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>5/2/2016</b>

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademarks Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

---

<sup>1</sup> In light of the Board's ruling herein, the identification of goods of Applicant's involved application Serial No. 86025182 will revert back to the identification as originally-filed, namely, "tobacco; smoking articles, namely, cigarettes, cigars, smoking pipes, and shishas."