

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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WF/RA

August 12, 2020

Opposition No. 91229249

Certina A.G. (Certina S.A.) (Certina Ltd.)

v.

T.R.B. International SA

By the Trademark Trial and Appeal Board:

On July 22, 2020, Applicant filed a stipulated motion to amend to its application Serial No. 79169426. 36 TTABVUE. By the proposed amendment, Applicant seeks to delete Class 14 in its entirety.

International Class 14

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135. *See* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 602.01 (2019). Trademark Rule 2.135 provides as follows:

After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. The written consent of an adverse party may be signed

by the adverse party or by the adverse party's attorney or other authorized representative.

Accordingly, and inasmuch as Opposer's written consent is of record, the involved application Serial No. 79169426 stands abandoned with respect to Class 14 only.

The remaining unopposed class 18 will proceed on for further processing.

If the amendment resolves this proceeding, Opposer is allowed until **thirty days** from the date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c).

If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings are otherwise suspended.

Bar Membership Requirements

It appears that both Opposer and Applicant are represented by an attorney. Effective August 3, 2019, the USPTO amended its rules to require all practitioners qualified under § 11.14(a) to be an active member in good standing and to provide the state in which she or he is an active member in good standing; the date of admission to the bar of the named state; and the bar license number, if one is issued by the named state. 37 C.F.R. § 2.17(b)(3).

Accordingly, both Opposer's and Applicant's counsel are also allowed **thirty days** from the mailing date of this order to provide the above-referenced information by completing the "Change of Address" form provided via ESTTA. The bar information entered on the ESTTA Change of Address form will be masked from TTABVUE.

If Opposer's and/or Applicant's counsel fail to comply with this order, the Board may issue an order to show cause in order for counsel to verify her or his bar membership to continue her/his appearance before the Board.

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).