

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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VV/al

September 25, 2018

Opposition No. 91239743

5th & Ocean Clothing, LLC

v.

The Hatch Conspiracy

By the Trademark Trial and Appeal Board:

On August 29, 2018, Applicant filed a proposed amendment to its application Serial No. 86958909, with Opposer's consent.

By the proposed amendment, Applicant seeks to abandon with prejudice the opposed International Class 25 of the involved application in its entirety.

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, which provides:

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.

Because Opposer's written consent to the deletion of Class 25 is of record, the motion is granted and Class 25 is abandoned with prejudice.¹

The identification of the goods in the opposed International Class 28 of the subject application remains unchanged.

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**.

¹ International Class 11 in the application is not affected by the amendment.