

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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MCF/nmt

September 29, 2020

Opposition No. 91264580

doTERRA Holdings, LLC

v.

Capna, Inc.

By the Trademark Trial and Appeal Board:

The Board notes that on September 18, 2020, Applicant filed a proposed amendment to its application Serial No. 86900003.

By proposed amendment, Applicant seeks to amend the identification of goods by deleting, in its entirety, the goods identified in International Class 3, i.e., the class of goods that is subject to the instant opposition.¹

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 TBMP §602.01. 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

¹ Applicant's proposed amendment to its identification of goods leaves unchanged the recitation of goods in International Class 34, which is not subject to the instant opposition.

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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.

In view thereof, application Serial No. 86900003 stands abandoned in Class 3 and the opposition is dismissed without prejudice. Application Serial No. 86900003 will proceed to registration with regard to the goods identified therein in Class 34. *See* Trademark Rules 2.106(c) and 2.135.