

UNITED STATES PATENT AND TRADEMARK OFFICE  
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RA/CH

January 3, 2025

Opposition No. 91267153

*South Beach Beverage Company, Inc.*

*v.*

*Litewater, Inc.*

**By the Trademark Trial and Appeal Board:**

On December 18, 2024, Opposer submitted the parties' stipulated response to the Board's order dated November 19, 2024 with respect to Applicant's proposed amendment to application Serial No. 90002762, Opposer's withdrawal without prejudice of the opposition, contingent upon entry of the amendment of application Serial No. 90002762, and the reiteration of the abandonment of application Serial Nos. 88920986 and 88920947 without Opposer's consent filed November 6, 2024.

**Disclaimer**

By the proposed amendment, Applicant seeks to enter a disclaimer of the terms "LITEWATER" and "SCIENTIFIC" separately. *See In re Grass GmbH*, 79 USPQ2d 1600 (TTAB 2006) (reversing requirement for unitary disclaimer of "SNAP ON 3000," and accepting separate disclaimers of "SNAP ON" and "3000."); TMEP § 1213.08(b). In accordance with TMEP § 1213.08(a)(i), the standardized disclaimer text as is as follows:

**No claim is made to the exclusive right to use “LITEWATER” or “SCIENTIFIC” apart from the mark as shown.**

The Board finds that the amendment to enter the disclaimer is in compliance with Trademark Act § 6, 15 U.S.C. § 1056 and relevant case law. Moreover, Opposer consents to the amendment, as required by Trademark Rule 2.133. In view of these findings, the amendment is approved and entered.

### **Abandonment**

On November 6, 2024, Applicant, without Opposer’s consent, moved to abandon application Serial Nos. 88920986 and 88920947. Requests for abandonment cannot be withdrawn, and when an abandonment is made without the written consent of the adverse party, judgment shall be entered against the applicant. Trademark Rules 2.68, 2.135; *See Goodway Corp. v. Int’l. Mktg. Grp. Inc.*, 15 USPQ2d 1749, 1750 (TTAB 1990) (applicant’s abandonment of certain applications without opposer’s written consent resulted in entry of judgment against applicant with respect to such applications.).

### **Conclusion**

The contingency in Opposer’s withdrawal having now been met, the opposition is dismissed without prejudice as to application Serial No. 90002762 which stands amended.

As application Serial Nos. 88920947 and 88920986 were abandoned without consent, judgment is hereby entered against Applicant as to application Serial Nos. 88920947 and 88920986, the opposition is sustained as to application Serial Nos. 88920947 and 88920986 and registration is refused.