

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

May 11, 2023

Opposition No. 91282278

Aston Martin Lagonda Limited LLC

v.

Berry Global, Inc.

By the Trademark Trial and Appeal Board:

The Board notes that on May 5, 2023, Applicant filed a proposed amendment to its application Serial No. 97093762.

By proposed amendment, Applicant seeks to change the identification of goods by deleting, in its entirety, the goods identified in International Class 12, 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:

¹ Applicant's proposed deletion to its identification of goods leaves unchanged the recitation of goods and services in International Classes 16, 17, 24, and 40, which are not subject to the instant opposition.

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.

In view thereof, and because Opposer's written consent to the abandonment of Class 12 goods is not of record, judgment is hereby entered against Applicant with regard to the goods in Class 12, the opposition is sustained and registration to Applicant in Class 12 is refused.

Application Serial No. 97093762 will proceed to registration with regard to the goods identified therein in International Classes 16, 17, 24, and 40.