

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: March 6, 2009

Opposition No. 91161093
Cancellation No. 92043580

Hijos De Rivera, S.A.

v.

Cerveceria Modelo de
Guadalajara, S.A. d e C.V.

Parent case Opposition No. 91161093 involves applicant/registrant's counterclaim to cancel opposer/petitioner's Registration No. 2165199. On December 18, 2008 applicant/registrant filed a withdrawal with prejudice of all counterclaims in these consolidated proceedings without the written consent of opposer/petitioner.

Inasmuch as the withdrawal of the counterclaim was filed after answer to the counterclaim, and without written consent of opposer/petitioner, the counterclaim to cancel Registration No. 2165199 is dismissed with prejudice. See Trademark Rule 2.114(c).¹

On November 18, 2008 in Cancellation No. 92043580, the Board entered judgment against applicant/registrant and

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granted the petition to cancel Registration No. 2694752 pursuant to Trademark Rule 2.134(a) based on applicant/registrant's voluntary surrender of said registration under Trademark Act Section 7(e) without the written consent of opposer/petitioner. On December 18, 2008 applicant/registrant filed, in Opposition No. 91161093, a request for an order of the Office of the Commissioner for Trademarks clarifying that the basis for cancellation of Registration No. 2694752 is applicant/registrant's voluntary surrender under Trademark Act Section 7(e).

Applicant/registrant's request is granted. A clarifying order will issue in due course.

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

¹ Opposer/petitioner's motion (filed October 29, 2008) to dismiss applicant/registrant's counterclaims is rendered moot and will be given no further consideration.