

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

MBA

Mailed: June 21, 2011

Cancellation No. 92050296

Altadis U.S.A. Inc.

v.

Wentworth E. Miller

**Before Bucher, Zervas and Bergsman, Administrative
Trademark Judges**

By the Board:

On March 9, 2010, the Board entered summary judgment and granted the petition for cancellation. On July 28, 2010, the Board denied respondent's motion for reconsideration of the prior order, and respondent then appealed the Board's decisions to the U.S. Court of Appeals for the Federal Circuit. On May 26, 2011, the Court of Appeals remanded this proceeding "for the limited purpose of the Board's consideration of the parties' motions," filed June 6, 2011, for vacatur of the prior orders and to amend the identification of goods in respondent's involved Registration No. 3233835. Specifically, respondent seeks to change the identification of goods in the registration **from** "cylindrical tube with removable caps at one or both ends for enclosing and extinguishing by oxygen deprivation a lighted cigarette, cigar, or similar smokable product" **to** "cylindrical tube with

removable caps at one or both ends for enclosing and extinguishing by oxygen deprivation a lighted cigarette or similar smokable product."

The stipulated motion for vacatur is hereby **CONDITIONALLY GRANTED** pending the filing of a perfected request to amend respondent's involved registration. Trademark Rule 2.127(a); TBMP § 544 (3d ed. rev. 2011). Specifically, with respect to the proposed amendment, respondent has not filed a declaration in support under Trademark Rule 2.20, and respondent has not paid the required fee. See, Trademark Rules 2.6 and 2.173. Accordingly, respondent is allowed until **THIRTY DAYS** from the mailing date of this order to file the required fee and declaration, upon which the motion for vacatur will be granted. If respondent fails to file the required fee and declaration, the motion for vacatur will be denied.
