

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85074802
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 115
<b>MARK SECTION (no change)</b>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_38100134126-114909152_._WORLD_BEST_CHCKEN_RESPONSE.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="#">\\TICRS\EXPORT11\IMAGEOUT11\850\748\85074802\xml6\RFR0002.JPG</a>
	<a href="#">\\TICRS\EXPORT11\IMAGEOUT11\850\748\85074802\xml6\RFR0003.JPG</a>
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/CK/
<b>SIGNATORY'S NAME</b>	Christopher Kelly
<b>SIGNATORY'S POSITION</b>	Attorney of record
<b>DATE SIGNED</b>	10/31/2011
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Oct 31 11:51:02 EDT 2011
<b>TEAS STAMP</b>	USPTO/RFR-38.100.134.126-20111031115102202668-85074802-480f2735e21cc9532937441e7dd0d664cb-N/A-N/A-20111031114909152296

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**Request for Reconsideration after Final Action**  
**To the Commissioner for Trademarks:**

Application serial no. **85074802** has been amended as follows:

**EVIDENCE**

**Original PDF file:**

[evi\\_38100134126-114909152\\_WORLD\\_BEST\\_CHCKEN\\_RESPONSE.pdf](#)

**Converted PDF file(s)** (2 pages)

[Evidence-1](#)

[Evidence-2](#)

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /CK/ Date: 10/31/2011

Signatory's Name: Christopher Kelly

Signatory's Position: Attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85074802

Internet Transmission Date: Mon Oct 31 11:51:02 EDT 2011

TEAS Stamp: USPTO/RFR-38.100.134.126-201110311151022

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	:		
	:		
Bruce Foods Corporation	:		
	:	Examiner:	M. Souders
Mark:	:		
	:		
	:	Law Office:	115
	:		
Ser. No.:	:		
	:		
Filing Date:	:		
	:		

Commissioner for Trademarks  
Post Office Box 1451  
Alexandria, VA 22313-1451

The examiner maintains and makes final the refusal to register the **WORLD’S BEST CHICKEN COOKER** trademark on the ground that the mark is merely descriptive. Applicant reiterates its position that Applicant’s mark at most is suggestive in connection with the identified goods. The examiner’s evidence of record, moreover, fails to establish the descriptiveness of Applicant’s mark within the meaning of Section 2(e)(1) of the Trademark Act. Indeed, the records of the U.S. Patent and Trademark Office amply demonstrate that the Office routinely allows registration of marks directly analogous to **WORLD’S BEST CHICKEN COOKER**. The examiner nevertheless claims that the references made of record on behalf of Applicant “are not high in probative value” because “most” of the covered marks are unitary. The examiner offers no persuasive explanation as to why or how the third-party marks are unitary and how or why Applicant’s mark is not unitary. There is no significant difference in structure between Applicant’s mark and the references relied upon by Applicant. The evidence made of record by Applicant and the examiner shows highly inconsistent treatment of “**WORLD’S BEST**” formative marks by the USPTO and, at a minimum, raises

significant doubt about the descriptiveness of Applicant's mark. Under controlling law, the examiner is required to resolve any doubt in Applicant's favor. *See, e.g., In re Aid Laboratories, Inc.*, 221 U.S.P.Q. 215 (T.T.A.B. 1983).

Applicant maintains that the arguments and evidence made of record show that Applicant's mark is entitled to registration on the Principal Register. Nevertheless, Applicant does not wish to delay prosecution of the captioned application any further. Applicant files under separate cover its Amendment to Allege Use and supporting exemplars of use and requests amendment of the application to the Supplemental Register. If the examiner remains unpersuaded by Applicant's arguments, Applicant requests that the examiner accept the amendment and approve Applicant's mark for registration on the Supplemental Register.

Applicant also notes the examiner's request for information about Applicant's goods. Applicant believes that the exemplars submitted in support of the Amendment to Allege Use satisfy the examiner's inquiry.

In view of the foregoing, Applicant has resolved the issues raised in the examiner's Office Action; and the application is now in condition for allowance. Applicant requests that the examiner approve the captioned application for registration.

If the examiner has any questions, she is encouraged to contact the undersigned by telephone at 202.719.7000.

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