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Subject: U.S. TRADEMARK APPLICATION NO. 85876688 - COFFEE FLOUR - IDMC-2-52467 - EXAMINER BRIEF

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

U.S. APPLICATION SERIAL NO. 85876688

MARK: COFFEE FLOUR

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GENERAL TRADEMARK INFORMATION:

http://www.uspto.gov/trademarks/index.jsp

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http://www.uspto.gov/trademarks/process/appeal/index.jsp

APPLICANT: Invention Development Management Company ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

IDMC-2-52467

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EXAMINING ATTORNEY'S APPEAL BRIEF

The applicant has appealed the trademark examining attorney's final refusal to register the mark COFFEE FLOUR (standard characters) for the Class 30 goods, "Flour made by processing and blending together coffee cherry skins, pulp, and pectin for use, alone or in combination with other plant and milk based products, as a dry ingredient in food and beverage products for consumer use." The examining attorney refused registration on the Supplemental Register pursuant to Section 23(c) of the Trademark

Act, 15 U.S.C. Section 1091(c) because the wording "COFFEE FLOUR" is not capable of denoting the source or origin of applicant's goods and distinguishing them from similar goods of others.

FACTS

On March 14, 2013, applicant filed the instant application to register the proposed mark COFFEE FLOUR, in standard characters, for goods originally identified as "Processed coffee cherry skins, pulp, and pectin for use, alone or in combination with other plant and milk based products, as an ingredient in food and beverage products." On June 25, 2013, the examining attorney refused registration of the proposed mark on the Principal Register under Section 2(e)(1) of the Trademark Act and issued an information request.

Applicant filed an Amendment to Allege Use on December 24, 2013 and a Response to Office Action, in which applicant argued that the proposed mark was suggestive. On January 22, 2014, the examining attorney accepted the Amendment to Allege Use and issued a subsequent non-final action maintaining and continuing the Section 2(e)(1) refusal and requiring additional information regarding the nature of the identified goods.

On July 22, 2014, the applicant responded to the information requirement by explaining the nature of the goods. On August 13, 2014, the examining attorney issued another non-final action maintaining and continuing the refusal under Section 2(e)(1) and newly requiring the applicant to amend the identification of goods.

The applicant filed its response on February 13, 2015 in which the applicant amended the goods to "Processed coffee cherry skins, pulp, and pectin blended together for use, alone or in combination with other plant and milk based products, as a dry ingredient in food and beverage products for consumer use" in Class 30 and sought an amendment to the Supplemental Register. On March 14, 2015 the examining attorney issued a non-final action refusing registration of the proposed mark on the Supplemental Register under Trademark Act Section 23(c) on the grounds that the proposed mark is generic and incapable on the Supplemental Register. The examining attorney also required further amendment to the identification of goods. A superseding non-final office action was issued by the examining attorney on March 16, 2015 which maintained and continued the Section 23(c) refusal and modified the identification of goods requirement.

Applicant responded on September 14, 2015 arguing that the proposed mark was not generic and amended the goods to "Flour made by processing and blending together coffee sherry [*sic*] skins, pulp, and pectin for use, alone or in combination with other plant and milk based products, as a dry ingredient in food and beverage products for consumer use" in Class 30. On October 15, 2015, the examining attorney accepted the amended identification of goods, after correcting an obvious misspelling and typographical error by the applicant[1], and issued a final office action refusing registration of the proposed mark on the Supplemental Register under Section 23(c) of the Trademark Act.

On April 14, 2016, the applicant filed a Request for Reconsideration seeking registration of the proposed mark on the Supplemental Register, which was subsequently denied by the examining attorney on May 16, 2016.

Applicant filed a Notice of Appeal on August 17, 2016. Applicant's brief was forwarded to the examining attorney on August 24, 2016.

ISSUE ON APPEAL

The single issue before the Board is whether the proposed mark COFFEE FLOUR is generic under Trademark Act Section 23(c), 15 U.S.C. §1091(c) and thus, incapable on the Supplemental Register.

ARGUMENT

THE PROPOSED MARK, COFFEE FLOUR, IS GENERIC IN THE CONTEXT OF THE IDENTIFIED GOODS.

A generic term is a common name that the relevant public uses or understands primarily as referring to the category or genus of the goods and/or services in question. *In re Nordic Naturals, Inc.*, 755 F.3d 1340, 1342, 111 USPQ2d 1495, 1497 (Fed. Cir. 2014); *H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, Inc.*, 782 F.2d 987, 989-90, 228 USPQ 528, 530 (Fed. Cir. 1986); *see* TMEP §1209.01(c). Generic

[1] In the Final Office Action dated October 15, 2015, the examining attorney corrected a typographical error by the applicant and entered the following identification of goods in Class 30: "Flour made by processing and blending together coffee *cherry* skins, pulp, and pectin for use, alone or in combination with other plant and milk based products, as a dry ingredient in food and beverage products for consumer use."

terms are by definition incapable of indicating a particular source of goods and/or services and cannot be registered as trademarks or service marks. *In re Merrill Lynch, Pierce, Fenner, & Smith, Inc.*, 828 F.2d 1567, 1569, 4 USPQ2d 1141, 1142 (Fed. Cir. 1987); *see* TMEP §1209.01(c). Registering generic terms "would grant the owner of [a] mark a monopoly, since a competitor could not describe his goods as what they are." *In re Merrill Lynch, Pierce, Fenner, & Smith, Inc.*, 828 F.2d at 1569, 4 USPQ2d at 1142.

In determining whether a mark is capable of functioning as a source indicator for goods, it is important to consider that in addition to common names, the name of an ingredient, a key aspect, a central focus or feature, or a main characteristic of goods may also be generic for those goods. *See In re Hotels.com LP*, 573 F.3d 1300, 1304, 91 USPQ2d 1532, 1535 (Fed. Cir. 2009) (affirming the Trademark Trial and Appeal Board's holding of HOTELS.COM as generic for travel agency services, namely, making reservations and bookings for temporary lodging, and providing information about temporary lodging); *In re Meridian Rack & Pinion*, 114 USPQ2d 1462, 1465-66 (TTAB 2015) (holding BUYAUTOPARTS.COM generic for on-line retail store services featuring auto parts); *In re Tires, Tires, Tires, Inc.*, 94 USPQ2d 1153, 1157 (TTAB 2009) (holding TIRES TIRES TIRES generic for retail tire store services); *In re Cent. Sprinkler Co.*, 49 USPQ2d 1194, 1199 (TTAB 1998) (holding ATTIC generic for automatic sprinklers for fire protection used primarily in attics); TMEP §§1209.01(c) *et seq.*; *see also In re Northland Aluminum Prods. Inc.*, 777 F.2d 1556, 1559-60, 227 USPQ 961, 963-64 (Fed. Cir. 1985) (holding BUNDT generic for cake mix); *In re A La Vieille Russie, Inc.*, 60 USPQ2d 1895, 1900 (TTAB 2001) (holding RUSSIANART generic for art dealership services); *A.J. Canfield Co. v. Honickman*, 808 F.2d 291, 292, 1 USPQ2d 1364, 1365 (3d Cir. 1986) (holding CHOCOLATE FUDGE generic for diet sodas). Thus, a term does not need to be the name of a specific product and/or service to be found generic.

The determination of whether a mark is generic requires a two-step inquiry:

(1) What is the genus of goods and/or services at issue?

(2) Does the relevant public understand the designation primarily to refer to that genus of goods and/or services?

H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, *Inc.*, 782 F.2d at 989-90, 228 USPQ at 530; *In re Meridian Rack & Pinion*, 114 USPQ2d 1462, 1463 (TTAB 2015) (citing *In re 1800Mattress.com IP, LLC*, 586 F.3d 1359, 1363, 92 USPQ2d 1682, 1684 (Fed. Cir. 2009)); TMEP §1209.01(c)(i).

I. WHAT IS THE GENUS OF GOODS AT ISSUE

Regarding the first part of the inquiry, the genus of the goods is often defined by an applicant's identification of goods. *In re Meridian Rack & Pinion*, 114 USPQ2d at 1463 (citing *Magic Wand Inc. v. RDB Inc.*, 940 F.2d 638, 640, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991)). In this case, the application identifies the goods as "Flour made by processing and blending together coffee cherry skins, pulp, and pectin for use, alone or in combination with other plant and milk based products, as a dry ingredient in food and beverage products for consumer use," which adequately defines the genus at issue.

The proposed mark, COFFEE FLOUR, is a generic compound term. In assessing the genericness of a compound term, the evidence of record must show that each of the constituent words is itself generic, and that when combined, the composite lends no additional meaning to the total combination. *See In re Gould Paper Corp.*, 834 F.2d 1017, 1018-19, 5 USPQ2d 1110, 1111-12 (Fed. Cir. 1987); *In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1602-03 (TTAB 2014); *In re Wm. B. Coleman Co.*, 93 USPQ2d 2019, 2025 (TTAB 2010); TMEP §1209.01(c)(i).

The dictionary defines "COFFEE" as "Any of various tropical African shrubs or trees of the genus Coffea, especially C. arabica or C. canephora, widely cultivated in the tropics for their seeds that are dried, roasted, and ground to prepare a stimulating aromatic drink" and "FLOUR" as "Any of various similar finely ground or powdered foodstuffs, as of cassava, chickpeas, or bananas" or "A soft, fine powder." See the definitions from *The American Heritage® Dictionary of the English Language,* Fifth Edition attached to Final Office Action dated October 15, 2015, TSDR pp. 58-61.

The term "COFFEE" is generic for the coffee plant, which includes its fruit or cherries, its beans, and any other component of the coffee plant. As such, the term "COFFEE" identifies a key aspect of the identified goods, which are produced from the fruit of the coffee plant—i.e., the coffee cherry processed into flour. On its website, the applicant promotes its goods with the following description, "Coffee cherries are packed with nutrition. It happens that they can be milled into one of the most uniquely dynamic and flavor-rich alternative…flours out there." Office Action dated August 13, 2014, TSDR pp. 5-6.

At the heart of applicant's arguments is the contention that "COFFEE FLOUR" merely describes the identified goods, but does not define a major class or kind of product. In particular, the applicant insists that "COFFEE" is but a descriptor added to the generic term "FLOUR." Applicant's Brief, p. 11. The information on applicant's website underscores the fact that "COFFEE" is the name of an ingredient, a key aspect, a central focus or feature, or a main characteristic of the goods. It is not possible to refer

to the applicant's goods without using the word "COFFEE," because the applicant's goods are essentially made out of *coffee* cherries. Thus, "COFFEE," as used by the applicant in relation to the identified goods, is incapable as a source identifier for goods made from the coffee plant.

The term "FLOUR," as conceded by the applicant, is generic as used in connection with applicant's flour and as further evidenced by the identification of goods which plainly states, "flour made by processing and blending together coffee cherry skins, pulp, and pectin." There is ample evidence on the record showing that "FLOUR" is a common name for finely ground or powdered foodstuffs in the nature of grains, fruits, vegetables, nuts, and beans. Please see Final Office Action dated October 15, 2015, TSDR pp. 75-86, 88-90, 93-95, 101, 104-105, 107-108, 111-116. See also Denial of Request for Reconsideration dated May 16, 2016, TSDR pp. 2-53. Material obtained from the Internet is generally accepted as competent evidence. *See In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008) (accepting Internet evidence to show descriptiveness); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); TBMP §1208.03; TMEP §710.01(b).

The proposed mark is a generic compound term because each of the constituent words, "COFFEE" and "FLOUR," is itself generic, and when combined, the composite lends no additional meaning to the total combination. When these individual words are combined into one term, "COFFEE FLOUR," the meaning of the compound term is flour made by processing, not just any fruit or cherry, but the *coffee* fruit or *coffee* cherry—or as stated in the applicant's identification, "coffee cherry skins, pulp, and pectin." It is essentially the apt or common name for the genus of the goods at issue, which is a type of flour "made by processing and blending together coffee cherry skins, pulp, and pectin." As a result, the relevant public would perceive the mark as a whole to be generic when applied to the relevant goods.

II. DOES THE RELEVANT PUBLIC UNDERSTAND THE DESIGNATION PRIMARILY TO REFER TO THAT GENUS OF GOODS

Regarding the second part of the inquiry, the relevant public is the purchasing or consuming public for the identified goods. *Sheetz of Del., Inc. v. Doctor's Assocs. Inc.*, 108 USPQ2d 1341, 1351 (TTAB 2013) (citing *Magic Wand Inc. v. RDB Inc.*, 940 F.2d at 640, 19 USPQ2d at 1553). In this case, the relevant public comprises ordinary consumers who purchase applicant's goods, because there are no

restrictions or limitations to the channels of trade or classes of consumers. The evidence of record shows that the wording "COFFEE FLOUR" is understood by the relevant public to mean "Flour made by processing and blending together coffee cherry skins, pulp, and pectin."

Applicant has also emphasized that it is the first and only user of the wording "COFFEE FLOUR." The fact that an applicant may be the first or only user of a generic designation is not dispositive on the issue of genericness where, as here, the evidence shows that the word or term is generic. *See In re Greenliant Sys. Ltd.*, 97 USPQ2d 1078, 1083 (TTAB 2010); *In re Nat'l Shooting Sports Found., Inc.*, 219 USPQ 1018, 1020 (TTAB 1983); TMEP §1209.03(c). The examining attorney has provided evidence that demonstrates the applicant as well as consumers referring to "COFFEE FLOUR" as a type of flour, rather than as a source indicator for applicant's goods.

On its website, the applicant has provided a photograph of its goods that shows its own use of the wording "COFFEE FLOUR" as the common name of a flour. The photograph of the packaging shows the wording "Shortbread Cookies—25% coffee flour." The website also shows all instances of the wording "COFFEE FLOUR" in lowercase letters. Please see Office Action dated August 13, 2014, TSDR pp. 5-6. Although applicant uses the "TM" next to the mark in its marketing materials, use of the symbol "TM" next to the mark merely shows applicant's intent to claim the applied-for mark as a trademark and is not an indicator of whether a mark is actually perceived by the public as a source indicator. *See In re Remington Prods. Inc.*, 3 USPQ2d 1714, 1715 (TTAB 1987); *In re Anchor Hocking Corp.*, 223 USPQ 85, 88 (TTAB 1984); *In re Indus. Washing Mach. Corp.*, 201 USPQ 953, 955 (TTAB 1979); TMEP §1202. Moreover, in touting the nutritional value of the goods on its website, the applicant describes its flour in comparison to natural whole wheat flour and coconut flour, which creates the commercial impression that "COFFEE FLOUR" is merely another type of flour. Office Action dated August 13, 2014, TSDR p. 5.

Applicant mainly argues that relevant consumers would not understand the wording in the proposed mark to identify the class of goods at issue. Applicant contends that consumers will incorrectly assume "that the product is made from coffee beans, tastes or smells like coffee, or contains the drink coffee." Applicant's Brief, p. 12. This argument, however, fails to take into account that most consumers will nevertheless understand, upon encountering the wording "COFFEE FLOUR," that the applicant's flour is made from components of the coffee plant. The examining attorney's refusal is properly supported by evidence obtained from various sources including dictionaries and third-party Internet websites. The evidence of record lends proper support to the finding that "COFFEE FLOUR" does immediately and unequivocally refer to flour that is made from components of the coffee plant.

Evidence of the public's understanding that a designation primarily refers to the genus of specific goods may be obtained from any competent source, such as dictionaries, trade journals, magazines, catalogs, newspapers, and other publications. *See In re Merrill Lynch, Pierce, Fenner, & Smith, Inc.*, 828 F.2d 1567, 1570, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987); *In re Northland Aluminum Prods., Inc.*, 777 F.2d 1556, 1559, 227 USPQ 961, 963 (Fed. Cir. 1985). In addition, material obtained from third-party Internet websites is generally accepted as competent evidence. *See In re Meridian Rack & Pinion*, 114 USPQ2d 1462, 1465-66 (TTAB 2015); TBMP §1208.03; TMEP §710.01(b).

The evidence of record indicates use by other parties and the applicant itself, of the designation "COFFEE FLOUR" as the apt name for flour made of coffee cherry skin, pulp, and pectin. For the Board's convenience, a sample of the evidence is listed below (italics were added):

- "Leave it to a Seattle company to scheme up the newest in an already robust line-up of alternative flours: *coffee flour*. This very new gluten-free flour is made from the pulp of coffee cherries…" Office Action dated March 16, 2015, TSDR p. 2.

- Patent Application No. US 14/364,925— Process for obtaining honey and/or flour of coffee from the pulp or husk and the mucilage of the coffee bean. "Claim 5: A process for obtaining *coffee flour* from the pulp or husk of the coffee bean, comprising the steps of…" and "Detailed Description—The process of the present invention is based on the use of the coffee bean sub-products which correspond to the pulp or husk and the mucilage, which are used for obtaining coffee honey and *coffee flour* being used as raw material for the manufacture of a plurality of products due to its high content of antioxidants, proteins and minerals and due to the beneficial properties." Office Action dated March 16, 2015, TSDR pp. 12 and 18.

- "Today, Belliveau's Vancouver-based startup, CF Global Holdings, has developed a patent-pending process for the milling of commercial-grade *coffee flour*." "With mills churning in several countries, CF Global plans to produce about 350,000 pounds of *coffee flour* this year." Final Office Action dated October 15, 2015, TSDR pp. 23 and 24.

- "*Coffee flour*, made from the pulverized coffee fruit (basically, what's left over after the coffee bean is harvested), is brand new to the scene, but the folks at the GF baking company Izzy & Em are already using the stuff in brownies and cookies…Experimenting when you feel like trying something new, or adding more flavor (like banana flour in banana bread, or *coffee flour* in brownies or chocolate cookies)…*Coffee flour* is rich in fiber, protein, iron, and potassium…You can't buy *coffee flour* yet, but the folks at coffeeflour.com say it should be hitting stores sometime this year." Final Office Action dated October 15, 2015, TSDR p. 29.

- "After five months, a handful of missed connections and scads of e-mails, this was it: I was finally going to taste *coffee flour*. The brainchild of Dan Belliveau, Starbucks' former Director of Technical Services, *coffee flour* is an elegant solution to an ugly problem." Final Office Action dated October 15, 2015, TSDR p. 31.

- "A new product, *coffee flour*, is looking to change that in the most revolutionary of ways…*Coffee flour*, as you can deduce from the name, has turned this fruit into a flour and hopes to bring the product into the mainstream market in 2015." Final Office Action dated October 15, 2015, TSDR p. 35.

- "In Seattle's latest and perhaps most original contribution to the worship of java, a local startup is trying to make a new culinary staple out of *coffee flour*…" Final Office Action dated October 15, 2015, TSDR p. 38.

- "The *coffee-flour* advocates say it has five times more fiber than the conventional wheat variety, and 84 percent less fat than coconut flour…A typical serving, say, in a sandwich using bread made with 25 percent *coffee flour*—has approximately the caffeine content of an eighth of a cup of brewed coffee." "Jason Wilson, a local culinary star, has been toying with *coffee flour* in his Capitol Hill restaurant, Crush…First, he tried to create financiers, a spongy cake that usually contains almond flour, out of 100 percent *coffee flour*…" "But dialing the *coffee flour* component down to a quarter and adding almonds…" "But the 'robust flavor' of *coffee flour* has made it a 'key ingredient in a variety of dishes on our menus." Final Office Action dated October 15, 2015, TSDR pp. 38-40.

- "Along with his partner Andrew Fedak, Belliveau has created *coffee flour*—a high-protein, high-fiber, gluten-free 'flour' that's the result of slow-drying coffee cherry pulp and grinding it into a fine powder. In March, Blue Hill chef Dan Barber featured *coffee flour* in a sorbet served for dessert at WastED…The Brooklyn bakery Izzy & Em's is using *coffee flour* in its brownies, coffee cakes, and cookies." Final Office Action dated October 15, 2015, TSDR p. 52.

- In Lauren Rothman's Interview with Dan Belliveau, creator of the applicant's product, Belliveau states, "So that's about 85 to 90 billion pounds of fruit. So then we see there's about 40 billion pounds of wet fruit available, and if we dry it, we get somewhere between 8 and 10 billion pounds of dried *coffee flour* ultimately." "When we blend it in with chocolate, it has a different attribute. Some of the acids in the *coffee flour* mask some of the bitter notes in chocolate with high percentages of cocoa." Final Office Action dated October 15, 2015, TSDR pp. 53-54.

The above instances of use of "COFFEE FLOUR" in lowercase letters show that the wording "COFFEE FLOUR" not only *describes* "Flour made by processing and blending together coffee cherry skins, pulp, and pectin," but also *designates* a kind of flour and *names* the thing in shorthand. Applicant has argued that the generic name for the identified goods is instead, "coffee husks and skins" or "dried

coffee cherry husks and skins" and that other ways to refer to applicant's goods include "powdered coffee cherry skins, pulp, pectin" or "finely ground coffee cherry skins, pulp and pectin." Response to Action dated April 14, 2016, TSDR pp. 9, 17-24 and Applicant's Brief, p. 14. Applicant's evidence of tariff classification and product components, which consists of a letter from U.S. Customs and Border Protection, screenshots from the Foreign Trade Division Schedule B, and applicant's Material Safety Data Sheet, simply helps to demonstrate that there can be more than one apt name for the applicant's identified goods. The wording "COFFEE FLOUR" is but one of various generic designations for the applicant's goods. It is well established that the availability of other words for competitors to use does not, by itself, transform a generic term into capable matter. *Blinded Veterans Ass'n v. Blinded American Veterans Foundation*, 872 F.2d 1035, 10 USPQ2d 1432, 1437 (D.C. Cir. 1989).

Applicant contends that there is no need for others to use the wording "COFFEE FLOUR" to refer to similar goods. Applicant's Brief, p. 14. However, while applicant may be the first user of the designation and inventor of a particular method of processing this type of flour, this circumstance should not prevent later competitors from using this shorthand generic designation to refer to flour made from the coffee plant. Applicant's insistence that "COFFEE FLOUR" is not the genus of the goods is an equivocation because ultimately, the term identifies a type of flour made out of coffee plant components, which in this case, are coffee cherry skins, pulp, and pectin.

The examiner's evidence of record clearly establishes that the relevant public would understand "COFFEE FLOUR" to identify a genus of flour containing ingredients from the coffee plant, namely, coffee cherry skins, pulp, and pectin. When the proposed mark is considered in relation to the identified goods, the resulting proposed mark is generic and does not create a different, non-generic meaning. *See In re Gould Paper Corp.*, 834 F.2d at 1018-19. As noted in *In re American Fertility Society*, "if the compound word would have no different meaning from its constituent words, and dictionaries, or other evidentiary sources, establish the meaning of those words to be generic, then the compound word too has been proved generic. No additional proof of the genericness of the compound word is required." *In re American Fertility Society* 188 F.3d 1341, 1348-49, 51 USPQ2d 1832, 1836 (Fed Cir. 1999).

The identification of goods and evidence on record describing the applicant's goods indicate that the product at issue is flour made from the fruit of the coffee plant. The words "COFFEE" and "FLOUR" retain their generic significance when combined and when considered in the context of the applicant's identification of goods. "FLOUR" is a generic term for any substance or powder made from ground or milled seeds or plant parts. The applicant's flour is just one of several types of flours used to

make food products and whose common commercial names consist of the name of the plant of which the fruit, bean, seed, or nut is milled, paired with the wording “FLOUR”. Other types of milled flours include almond flour, apple flour, arrowroot flour, barley flour, bean flour, brown rice flour, buckwheat flour, butternut squash flour, chestnut flour, chia seed flour, coconut flour, corn flour, dal flour, flax seed flour, garbanzo bean flour, hazelnut flour, hemp flour, lupin flour, malt flour, millet flour, nut flours, oat flour, potato flour, quinoa flour, rice flour, rye flour, sorghum flour, soy flour, sweet potato flour, tapioca flour, taro flour, teff flour, and yam flour. Final Office Action dated October 15, 2015, TSDR pp. 75-86, 88-90, 93-95, 101, 104-105, 107-108, 111-116. Information on various types of flours for different dietary needs and restrictions is widely available to today’s consumers. The relevant public understands “COFFEE FLOUR” to mean “Flour made by processing and blending together coffee cherry skins, pulp, and pectin.”

CONCLUSION

The applied-for mark COFFEE FLOUR is composed of the generic terms “COFFEE” and “FLOUR” which, as combined here, retain their generic meaning as flour made from components of the coffee plant, more specifically, coffee cherry skins, pulp, and pectin. Because this combination of generic terms designates the class or type of goods at issue and is the name by which consumers call the identified goods, the mark is generic. For the foregoing reasons, the refusal to register the mark on the Supplemental Register, under Section 23(c) of the Trademark Act should be affirmed.

Respectfully submitted,

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