

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

Baxley

Mailed: April 11, 2007

Opposition No. **91171891**

Kids Need Us Now, LLC

v.

Kashi Company

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

On April 9, 2007, the parties filed applicant's proposed amendment to its application Serial No. 78719203, with opposer's consent. On March 27, 2007, opposer filed a withdrawal of the opposition with prejudice, based on the parties' settlement agreement.<sup>1</sup>

By the proposed amendment, applicant seeks to add the wording "; excluding candy" at the conclusion of the identification of goods. Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

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<sup>1</sup> On October 5, 2006, Kellogg North America Company ("Kellogg") filed a proposed amendment to the identification of goods of applicant's involved application Serial No. 78719203. However, the Board determined, in a March 29, 2007 order, that because Kellogg is not a party to this proceeding, the proposed amendment was not properly before the Board. Inasmuch as opposer's withdrawal appears based on the acceptance and entry of the proposed amendment, the Board, in the March 29, 2007 order, deferred consideration of the withdrawal and allowed applicant time in which to file a motion to amend.

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In view of the parties' settlement agreement, the opposition is dismissed without prejudice.