

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

Winter/nmt

Mailed: April 13, 2009

Opposition No. 91188371

Sunstar Americas, Inc.

v.

I DID IT, Inc.

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On March 31, 2009, the Board allowed opposer thirty days to provide its written consent to applicant's proposed amendment to its application Serial No. 76677501. On April 6, 2009, opposer filed its consent to the amendment with the Board.

By the proposed amendment, applicant seeks to change the identification of goods in International Class 5 as follows:

From:

"Medicated chewable flavored food substances in the nature of chewy tablets in the shape of animals, toys and the like that promote dental hygiene and good health; chewable flavored food substances in the nature of chewy tablets in the shape of animals, toys and the like, containing vitamins that promote dental hygiene and good health."

To:¹

¹ The wording "that promote dental hygiene and good health" is deleted from both phrases of the identification of goods.

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"Medicated chewable flavored food² substances in the nature of chewy tablets in the shape of animals, toys and the like; chewable flavored food substances in the nature of chewy tablets in the shape of animals, toys and the like, containing vitamins."

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).

The Board also notes applicant's statement that it "will limit its use of GUM CHUMS such that the GUM portion of the mark appears in no larger letters and is no more prominently displayed than the CHUMS portion of the mark and GUM and CHUMS are used in the same font and color." In view of the current designation in the application by which the mark is designated as being shown in "standard character" format, the parties are reminded that the above-referenced statement will NOT BE PRINTED on the certificate of registration. See Trademark Rule 2.52(a); and TMEP § 807.03 (5th ed. 2007). Similarly, while applicant's disclaimer of the term "GUM" is already of record and will be printed on the certificate of registration, the statement "nor will Applicant use the word GUM alone as a trademark" will also not be printed on said certificate.

² The Board has amended applicant's proposed amendment to read "food substances" instead of "flood substances," which is an obvious typographical error set forth in the proposed amendment. Cf. TMEP § 707.02 (5th ed. 2007) (allowing examiner's amendments without prior authorization of applicant for correction of obvious typographical errors). If either party disagrees with this minor change, it should contact the assigned Interlocutory Attorney immediately.

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If amendment approved *supra* resolves the dispute herein, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

This proceeding remains otherwise **SUSPENDED**.



NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>