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

coggins

Mailed: February 1, 2010

Opposition No. 91191649

PetAg Inc.

v.

Tamara Yapp

On December 29, 2009, applicant filed a proposed amendment to its application Serial No. 77560699, with opposer's consent. Thereafter, on January 14, 2010, opposer filed a withdrawal of the opposition contingent upon entry of the proposed amendment.

By the proposed amendment applicant seeks to change the identification of goods in Class 5 from

> Dietary supplements; nutritional supplements; and probiotic nutritional and dietary supplements in the form of liquid mixtures, powdered drinks, protein powders, capsules, and nutritional bar containing beneficial bacteria resulting from fermented compositions such as greens, grains, fruits, vegetables, or proteins; probiotic food and probiotic food additives all for horses and domestic animals, namely, cats and dogs, containing beneficial bacteria derived from fermented vegetables, grains, fruits or proteins;

to

> Dietary supplements; nutritional supplements; and probiotic nutritional and dietary supplements for human consumption in the form of liquid mixtures,

> powdered drinks, protein powders, capsules, and nutritional bar for human consumption containing beneficial bacteria resulting from fermented compositions such as greens, grains, fruits, vegetables, or proteins;

and change the identification of goods in Class 29 from

> Protein based, nutrient-dense snack bars containing probiotic beneficial bacteria comprised of a fermented composition derived from vegetables, grains, fruits or proteins;

to

> Protein based, nutrient-dense snack bars for human consumption containing probiotic beneficial bacteria comprised of a fermented composition derived from vegetables, grains, fruits or proteins.

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 contingency in opposer's withdrawal having now been met, the opposition is dismissed without prejudice.[1]

By the Trademark Trial and Appeal Board

[1] In view thereof, the outstanding motion to set aside notice of default is moot.