

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

vw

Mailed: September 26, 2011

Opposition No. 91195820

Kraft Foods Schweiz Holding  
GmbH

v.

Nexus Foods, Inc.

Jennifer Krisp, Interlocutory Attorney:

On September 15, 2011, applicant filed a proposed amendment to its application Serial No. 77871684, with no allegation of opposer's consent.

By the proposed amendment applicant seeks to amend the identification of goods in International Class 30 **from** "Candy" **to** "Candy, but not including Chocolate."

The Board generally defers determination of a timely filed unconsented motion to amend in substance until final decision or until the case is decided upon summary judgment. See TBMP § 514.01 (3d ed. 2011).

In view thereof, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to submit its written consent to the aforementioned proposed amendment, failing which consideration will be deferred. At such time as opposer's consent is of record, the Board will entertain applicant's proposed amendment to the subject application.

In addition, applicant's proposed amendment does not include the required Certificate of Service, indicating service of a copy thereof on opposer. Compliance with Trademark Rule 2.119 is REQUIRED of all future filings in this proceeding, and the Board may decline to consider any future motion or paper filed by applicant herein which does not include a Certificate of Service. To expedite this matter, a copy of the proposed amendment is sent with opposer's copy of this order. Strict compliance with Trademark Rule 2.119 is required for all future filings.

The current suspension period and dates remain as reset in the Board's September 16, 2011 order.

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