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Filing date: **07/12/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200120
Party	Plaintiff Kraft Foods Global Brands LLC
Correspondence Address	Thomas White, Jin Yan Schiff Hardin LLP 233 S. Wacker Drive Suite 6600 Chicago, IL 60606 UNITED STATES jyan@schiffhardin.com, twhite@schiffhardin.com, trademarks@schiffhardin.com
Submission	Motion for Summary Judgment
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Signature	/Jin Yan/
Date	07/12/2012
Attachments	Kraft SJ Motion.pdf (30 pages)(290314 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KRAFT FOODS GLOBAL BRANDS LLC)

Opposer,)

v.)

SUKHWINDER PAL CHAWLA)

Applicant.)

Opposition No. 91200120

OPPOSER’S MOTION FOR SUMMARY JUDGMENT

Opposer, Kraft Foods Global Brands LLC (“Kraft”), pursuant to Federal Rule of Civil Procedure 56 and Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 528, moves the Board to grant summary judgment in its favor and against Applicant Sukhwinder Pal Chawla. In support of this motion, Kraft states as follows:

INTRODUCTION

Kraft owns the famous KOOL-AID mark for soft drinks and related products, and the Applicant has applied to register COCO KOOL for fruit drinks and related products. Kraft served written discovery requests, including requests to admit, on the Applicant in November 2011. The Applicant has failed to respond to Kraft’s discovery requests, including Kraft’s requests to admit, and the Applicant has not served any discovery of his own.

As a result, there is no dispute that use of the Applicant’s COCO KOOL mark for the goods stated in the application is likely to result in confusion, mistake or deception with Kraft’s KOOL-AID mark, and there is no dispute that the Applicant’s use of his mark is likely to dilute Kraft’s famous KOOL-AID mark.

STATEMENT OF FACTS

1. Kraft, through its predecessors and related companies, has used the KOOL-AID mark in commerce since at least as early as 1927. Since that time, Kraft and its predecessors and related companies have manufactured, advertised, and sold many millions of dollars' worth of soft drinks and soft-drink mixes under the KOOL-AID mark, and have spent many millions of dollars advertising and promoting the KOOL-AID mark for KOOL-AID products throughout the United States. By virtue of such long use and extensive sales, advertising, and promotional efforts, Kraft owns valuable goodwill symbolized by its KOOL-AID mark, and the KOOL-AID mark has been extremely well-known and famous among consumers and others throughout the United States for many years. Kraft acquired that goodwill, and its KOOL-AID mark became extremely well-known and famous, long before the Applicant filed his application to register the COCO KOOL mark. (*See* Declaration of Mary Carragher, attached as Exhibit A, ¶¶ 3-4.)

2. The Applicant and his products are not connected with, licensed by, or approved by Kraft. Kraft has not consented to the Applicant's use or registration of the COCO KOOL mark. (Carragher Declaration ¶ 5.)

3. Kraft owns numerous registrations for marks that incorporate a KOOL or KOOL-AID component, including, but not limited to, the following marks (the "KOOL-AID Marks"):

Mark	U.S. Reg. No.	Goods
KOOL-AID and Design	0317955	Prepared powder containing flavor, fruit acid, and color put up in a number of flavors for making nonalcoholic beverage in the home
KOOL-AID and Design	0384244	Carbonated beverages
KOOL-AID and Design	1133277	Powders, syrups and concentrates used in the preparation of soft drinks
KOOL-AID	2321815	Beverages, namely soft drinks, soft drink mixes; powders,

		syrups or concentrates for making soft drinks
--	--	---

Copies of printouts from the USPTO electronic database records showing the current status and title of these registrations are attached as Exhibit B.

4. On October 15, 2010, the Applicant filed an intent-to-use application, Application Serial No. 85/153,999, to register COCO KOOL and Design for “beers; mineral and aerated waters; fruit drinks and fruit juices; syrups and other preparation for making beverages, namely, coconut fruit drinks” (the “Applicant’s Goods”). The application was published for opposition on May 10, 2011.

5. Kraft initiated this Opposition Proceeding on June 3, 2011. On November 9, 2011, Kraft served discovery requests on the Applicant through his counsel of record, including Opposer’s First Set of Requests for Admission. (A copy of Opposer’s First Set of Requests for Admission is attached as Exhibit C; *see also* Declaration of Thomas White, attached as Exhibit D, ¶ 2.). The Applicant’s responses to Kraft’s discovery requests were due on December 9, 2011. On December 2, 2011 the Applicant requested a 30 day extension of the deadline for his discovery responses, and Kraft agreed to extend the deadline through January 9, 2012. (White Declaration ¶ 3.) That date came and went without any discovery responses from the Applicant. (White Declaration ¶ 4.) Therefore the Requests for Admission are deemed admitted. TBMP § 407.03(a); Fed. R. Civ. P. 36(a).

6. The following facts are undisputed:

- (a) Kraft began using the KOOL-AID mark before the Applicant began using the COCO KOOL mark. (Request for Admission No. 1.)
- (b) The Applicant was aware of Kraft’s use of the KOOL-AID mark before the Applicant decided to use the COCO KOOL mark, and before the Applicant filed his application to register the COCO KOOL mark. (Requests for Admission Nos. 2, 3.)

- (c) The Applicant was aware that Kraft owned a registration for one or more of the KOOL-AID Marks before the Applicant decided to use the COCO KOOL mark, and before the Applicant filed the COCO KOOL application. (Requests for Admission Nos. 7, 8.)
- (d) The KOOL-AID Marks are distinctive, and have valuable goodwill among consumers. (Requests for Admission Nos. 10, 12.)
- (e) The KOOL-AID Marks are famous, and were famous before the Applicant filed the COCO KOOL application. (Requests for Admission Nos. 14, 16.)
- (f) The Applicant's use of the COCO KOOL mark for Applicant's Goods is likely to result in confusion, mistake, or deception with one or more of the KOOL-AID Marks, and is likely to result in the belief that the Applicant or Applicant's Goods are in some way connected with, or licensed or approved by Kraft. (Requests for Admission Nos. 18, 19.)
- (g) The Applicant's use of the COCO KOOL Mark for Applicant's Goods is likely to dilute Kraft's famous KOOL-AID mark. (Request for Admission No. 20.)

ARGUMENT

7. Kraft is entitled to summary judgment. Summary judgment is proper where “the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c); *see also Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

The Applicant's Mark is Confusingly Similar to the KOOL-AID Marks.

8. The Applicant's mark is confusingly similar to the KOOL-AID Marks. The Applicant admits that Kraft was using the KOOL-AID Marks before the Applicant started using the COCO KOOL mark. He admits that the KOOL-AID Marks are distinctive and carry valuable goodwill. And he admits that he was aware of the KOOL-AID Marks before he started using, or applied to register, the COCO KOOL mark.

9. It is clear from the marks and the goods themselves that confusion is likely. The intentionally-misspelled word “KOOL” is the dominant part of both the KOOL-AID Marks and

the Applicant's mark, and the Applicant's Goods are identical to the goods that the KOOL-AID Marks are registered for, namely beverages and preparations for making beverages. In addition, the Applicant admits that use of the COCO KOOL mark is likely to result in confusion, mistake, or deception with the KOOL-AID Marks. He also admits that use of the COCO KOOL mark is likely to result in the belief that the Applicant or the Applicant's Goods are in some way connected with, or licensed or approved by Kraft. As a result, there is no genuine issue of material fact as to the likelihood of confusion between the KOOL-AID Marks and the Applicant's mark.

10. Under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), a trademark application should be refused when the mark is "likely, when used on or in connection with the goods of the applicant, to cause confusion, to cause mistakes, or to deceive." Refusing registration of a trademark is particularly appropriate in an opposition proceeding brought by a trademark registrant policing its mark from confusingly similar use by a subsequent applicant. *See In re Majestic Distilling Co.*, 315 F.3d 1311, 1318 (Fed. Cir. 2003). Further, "[t]o the extent that any doubts may remain regarding the likelihood of confusion in a trademark registration case, it is proper than they be resolved in favor of the prior registrant." *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1568 (Fed. Cir. 1984). There is no genuine issue of material fact as to likelihood of confusion, and therefore the opposition should be sustained and registration of the Applicant's mark should be denied.

The Applicant's Mark Is Likely To Dilute the KOOL-AID Marks.

11. The Applicant's mark is also likely to dilute the KOOL-AID Marks. The Applicant admits that the KOOL-AID Marks are famous. He admits that the KOOL-AID Marks became famous before he filed his application to register the COCO KOOL mark. And he admits that his use of the COCO KOOL mark is likely to dilute Kraft's famous KOOL-AID

mark. These admissions are confirmed by the facts set forth in the Declaration of Mary Carragher.

12. Under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), the owner of a famous mark that is distinctive “shall be entitled to an injunction against another person who, at any time after the owner’s mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring.” Dilution by blurring is an “association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark.” 15 U.S.C. § 1125(c)(2)(B). The three elements of dilution by blurring are: (1) that the opposer’s mark is famous; (2) that the opposer’s mark became famous before the date of the application to register the applicant’s mark; and (3) that the applicant’s mark is likely to blur the distinctiveness of the opposer’s mark. *Nat’l Pork Board and Nat’l Pork Producers Council v. Supreme Lobster & Seafood Co.*, 96 U.S.P.Q. 2d 1479, 1495 (TTAB 2010). There is no genuine issue of material fact as to dilution by blurring, and therefore the opposition should be sustained and registration of the Applicant’s mark should be denied.

CONCLUSION

For these reasons, Kraft respectfully requests that the Board enter an order granting this motion, sustaining the opposition, and refusing the application to register the COCO KOOL mark.

Dated: July 12, 2012



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jyan@schiffhardin.com

Attorneys for Opposer Kraft Foods Global Brands LLC

CERTIFICATE OF SERVICE

Jin Yan certifies that on July 12, 2012 he caused a copy of the foregoing Opposer's Motion for Summary Judgment to be served by first class mail and email on the following counsel of record for Applicant:

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Jin Yan

CH2\11236820.1

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KRAFT FOODS GLOBAL BRANDS LLC)	
)	
Opposer,)	
)	Opposition No. 91200120
v.)	
)	
SUKHWINDER PAL CHAWLA)	
)	
Applicant.)	

DECLARATION OF MARY CARRAGHER

1. I am Attorney-Contractor, Global Intellectual Property-Trademarks for Kraft Foods Global, Inc., parent company of the Opposer Kraft Foods Global Brands LLC (“Kraft”). I am submitting this declaration in support of Kraft’s motion for summary judgment. I make this declaration based on my own personal knowledge, and if called as a witness I could testify about the matters stated in this declaration.

2. One of my current responsibilities for Kraft is management of its trademarks for beverage products, including the KOOL-AID mark and related marks. In that capacity, I am very familiar with Kraft’s use of the KOOL-AID mark and related marks, and I am also very familiar with Kraft’s business relating to those marks including its promotion and sale of products under the KOOL-AID mark and related marks.

3. Kraft, through its predecessors and related companies, has used the KOOL-AID mark in commerce since at least as early as 1927. Since that time, Kraft and its predecessors and related companies have manufactured, advertised, and sold soft drinks and soft-drink mixes under the KOOL-AID mark, have sold many millions of dollars’ worth of KOOL-AID products, and have spent many millions of dollars advertising and promoting the KOOL-AID mark for KOOL-AID products throughout the United States.

4. By virtue of such long use, extensive sales, advertising, and promotional efforts, Kraft owns valuable goodwill symbolized by its KOOL-AID mark, and the KOOL-AID mark

has been extremely well-known and famous among consumers and others throughout the United States for many years. Kraft acquired that goodwill, and its KOOL-AID mark became extremely well-known and famous, long before the Applicant filed his application to register the COCO KOOL mark.

5. The Applicant and his products are not connected with, licensed by, or approved by Kraft. Kraft has not consented to the Applicant's use or registration of the COCO KOOL mark.

6. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: July 11, 2012



Mary Carragher

EXHIBIT B



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Word Mark	KOOL-AID
Goods and Services	IC 030. US 045. G & S: PREPARED POWDER CONTAINING FLAVOR, FRUIT ACID, AND COLOR PUT UP IN A NUMBER OF FLAVORS FOR MAKING NONALCOHOLIC BEVERAGE IN THE HOME. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	71352502
Filing Date	June 9, 1934
Current Basis	1A
Original Filing Basis	1A
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	0317955
Registration Date	October 9, 1934
Owner	(REGISTRANT) PERKINS PRODUCTS COMPANY CORPORATION ILLINOIS NO 5535 WEST 65TH STREET CHICAGO ILLINOIS (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	BARTON M. ZEDD
Prior Registrations	0238448

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20040109.
Renewal 4TH RENEWAL 20040109
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KOOL-AID

Word Mark	KOOL-AID
Goods and Services	IC 032. US 045. G & S: [Nonalcoholic, Noncereal, Maltless.] CARbonated Beverages[And Syrups and ExTRACTs for Making the Same]. FIRST USE: 19400411. FIRST USE IN COMMERCE: 19400411
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	71435727
Filing Date	September 6, 1940
Current Basis	1A
Original Filing Basis	1A
Registration Number	0384244
Registration Date	January 7, 1941
Owner	(REGISTRANT) Perkins Products Company CORPORATION ILLINOIS No. 5555 West 65th St. Chicago ILLINOIS (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	SUSAN H. FROHLING
Prior Registrations	0238448;0317955
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECTION 8(10-YR) 20010516.

Renewal 3RD RENEWAL 20010516
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Word Mark	KOOL-AID
Goods and Services	IC 032. US 045. G & S: POWDERS, SYRUPS AND CONCENTRATES USED IN THE PREPARATION OF SOFT DRINKS. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	73189601
Filing Date	October 16, 1978
Current Basis	1A
Original Filing Basis	1A
Registration Number	1133277
Registration Date	April 15, 1980
Owner	(REGISTRANT) GENERAL FOODS CORPORATION CORPORATION DELAWARE 250 NORTH ST. WHITE PLAINS NEW YORK 10625 (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Demetra Merikas
Prior Registrations	0238448;0991458;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100424.

Renewal 2ND RENEWAL 20100424
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Typed Drawing

Word Mark	KOOL-AID
Goods and Services	IC 032. US 045 046 048. G & S: Beverages, namely, soft drinks, soft drink mixes; powders, syrups or concentrates for making soft drinks. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75673999
Filing Date	April 2, 1999
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	November 30, 1999
Registration Number	2321815
Registration Date	February 22, 2000
Owner	(REGISTRANT) Kraft Foods, Inc. CORPORATION DELAWARE Three Lakes Drive Northfield ILLINOIS 600932753 (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Demetra Merikas
Prior Registrations	0317955;0384244;0384365;1133277;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100224.
Renewal	1ST RENEWAL 20100224

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EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KRAFT FOODS GLOBAL BRANDS LLC,)	
)	
Opposer,)	
v.)	Opposition No. 91200120
)	
SUKHWINDER PAL CHAWLA,)	
)	
Applicant.)	

OPPOSER’S FIRST SET OF REQUESTS FOR ADMISSIONS

Opposer, Kraft Foods Global Brands LLC, requests that the Applicant, Sukhwinder Pal Chawla, pursuant to Rule 2.120 of the Trademark Rules of Practice and Procedure and Rule 36 of the Federal Rules of Civil Procedure, make the following admissions.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions contained in Opposer’s First Set of Interrogatories to Applicant are incorporated by reference and apply to these requests.

REQUESTS FOR ADMISSIONS

Request for Admission No. 1: Opposer began using the KOOL-AID mark before Applicant began using COCO KOOL Mark.

Request for Admission No. 2: Applicant was aware of Opposer’s use of the KOOL-AID mark before Applicant decided to use COCO KOOL Mark.

Request for Admission No. 3: Applicant was aware of Opposer’s use of the KOOL-AID mark before Applicant filed The COCO KOOL Application.

Request for Admission No. 4: Opposer began using the KOOL POINTS mark before Applicant began using COCO KOOL Mark.

Request for Admission No. 5: Applicant was aware of Opposer's use of the KOOL POINTS mark before Applicant decided to use COCO KOOL Mark.

Request for Admission No. 6: Applicant was aware of Opposer's use of the KOOL POINTS mark before Applicant filed the COCO KOOL Application.

Request for Admission No. 7: Applicant was aware that Opposer owned a registration for one or more of Opposer's Marks before Applicant decided to use COCO KOOL Mark.

Request for Admission No. 8: Applicant was aware that Opposer owned a registration for one or more of Opposer's Marks before Applicant filed the COCO KOOL Application.

Request for Admission No. 9: Neither Applicant nor anyone acting on Applicant's behalf conducted a trademark search for COCO KOOL Mark before Applicant filed the COCO KOOL Application.

Request for Admission No. 10: Opposer's Marks are distinctive.

Request for Admission No. 11: One or more of Opposer's Marks is distinctive.

Request for Admission No. 12: Opposer's Marks have valuable goodwill among consumers.

Request for Admission No. 13: One of more of Opposer's Marks has valuable goodwill among consumers.

Request for Admission No. 14: Opposer's Marks are famous.

Request for Admission No. 15: One of more of Opposer's Marks is famous.

Request for Admission No. 16: Opposer's Marks were famous before Applicant filed the COCO KOOL Application.

Request for Admission No. 17 One of more of Opposer's Marks were famous before Applicant filed the COCO KOOL Application.

Request for Admission No. 18 Applicant's use of the COCO KOOL Mark for Applicant's Goods is likely to result in confusion, mistake, or deception with one or more of Opposer's Marks.

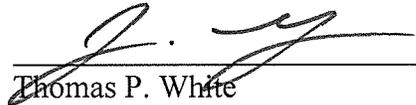
Request for Admission No. 19 Applicant's use of the COCO KOOL Mark for Applicant's Goods is likely to result in the belief that Applicant or Applicant's Goods are in some way connected with, or licensed or approved by Opposer.

Request for Admission No. 20 Applicant's use of the COCO KOOL Mark for Applicant's Goods is likely to dilute Opposer's famous KOOL-AID mark.

Dated: November 9, 2011

KRAFT FOODS GLOBAL BRANDS LLC

By:



Thomas P. White
Jin Yan
Schiff Hardin LLP
233 S. Wacker Drive, Suite 6600
Chicago, Illinois 60606
(312) 258-5500
Attorneys for Opposer

CERTIFICATE OF SERVICE

Jin Yan, an attorney, certifies that on November 9, 2011, he caused to be served the foregoing Opposer's First Set of Requests for Admissions by first class mail and email on:

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mswyers@thetrademarkcompany.com

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jamier@thetrademarkcompany.com



Jin Yan

CH2\10645573.1

EXHIBIT D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KRAFT FOODS GLOBAL BRANDS LLC)	
)	
Opposer,)	
)	Opposition No. 91200120
v.)	
)	
SUKHWINDER PAL CHAWLA)	
)	
Applicant.)	

DECLARATION OF THOMAS WHITE

Thomas P. White declares as follows:

1. I am a partner in the law firm of Schiff Hardin LLP, counsel to Opposer Kraft Foods Global Brands LLC (“Kraft”). I am submitting this declaration in support of Kraft’s motion for summary judgment. I make this declaration based on my own personal knowledge, and if called as a witness I could testify about the matters stated in this declaration.

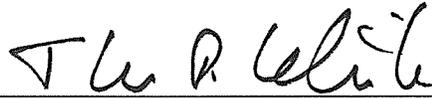
2. On November 9, 2011, Kraft served discovery requests on the Applicant through his counsel of record, including Opposer’s First Set of Requests for Admission. A true and correct copy of Opposer’s First Set of Requests for Admission are attached as Exhibit C to Kraft’s motion for summary judgment. The Applicant has not served any discovery on Kraft.

3. On December 2, 2012, in an email sent to an in-house attorney at Kraft, the Applicant’s counsel requested a 30 day extension of the Applicant’s time to respond to Kraft’s discovery requests. In a December 5, 2012 email sent to the Applicant’s counsel, I informed the Applicant that Kraft agreed to an extension of the date for the Applicant’s discovery responses until January 9, 2012. True and correct copies of these emails are attached as Exhibit 1 to this declaration.

4. The Applicant has not served any responses to Opposer’s First Set of Requests for Admission or to Kraft’s other discovery requests.

5. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: July 2, 2012

A handwritten signature in cursive script, appearing to read "Thomas White", written above a horizontal line.

Thomas White

Exhibit 1 to Declaration of Thomas White

White, Thomas

From: White, Thomas
Sent: Monday, December 05, 2011 5:18 PM
To: mswyers@thetrademarkcompany.com
Cc: demetra.merikas@kraftfoods.com; marym@thetrademarkcompany.com; jamier@TheTrademarkCompany.com; Yan, Jin
Subject: RE: Kraft Foods Global Brands LLC vs. Sukhwinder Pal Chawla

Matthew –

In response to your email to Demetra Merikas below, Kraft will agree to an extension of the date for your client's discovery responses until January 9, 2012.

Also, going forward please cc me on any correspondence.

Thanks.

Tom

Thomas P. White
Schiff Hardin LLP
233 South Wacker Drive
Suite 6600
Chicago, Illinois 60606-6473
phone: 312-258-5767
fax: 312-258-5600
twhite@schiffhardin.com

From: Matthew H. Swyers [<mailto:mswyers@thetrademarkcompany.com>]
Sent: Friday, December 02, 2011 3:04 PM
To: Merikas, Demetra
Cc: marym@thetrademarkcompany.com; jamier@TheTrademarkCompany.com
Subject: RE: Kraft Foods Global Brands LLC vs. Sukhwinder Pal Chawla

Demetra:

I note that our responses to your discovery are due 12/09/2011. May we have a 30-day extension of time in which to prepare our answers while our client is reviewing the settlement agreement. Ultimately I feel that the discovery you forwarded will be rendered moot. I just want to make sure we do miss the deadline should this not end up settling.

Thank you for your time and attention to this matter. Kindly let me know at your convenience.

Matthew H. Swyers

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Phone (800) 906-8626 x100