

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

nmt

Mailed: March 24, 2014

Opposition No. 91209971

McDonald's Corporation

v.

Patisserie Pasquier Cerqueux

Elizabeth A. Dunn, Attorney:

On January 20, 2014, the parties filed applicant's proposed amendment to its application Serial No. 79105637, with opposer's consent, and opposer's withdrawal of the opposition, contingent upon entry of the amendment.

By the proposed amendment applicant seeks to change the identification of goods in International Class 30 as follows:

from

"Biscuits, buns; filled brioche; chocolate-filled brioche, fruit-filled brioche; fritters containing fruits; Viennese pastries; pains au chocolat, namely, chocolate-filled pastries; raisin breads, croissants, milk breads; gingerbread; fruit turnovers; pastries; sweet petit-fours; tarts; cakes; pancakes, waffles; macaroons; edible decorations for cakes; confectionery made of sugar; fruit jellies, edible ices"

to

"Macaroons and pastry reductions."

Amendments to the application made during an inter partes proceeding must comply with the same rules and statutory provisions applied during ex parte examination. Trademark Rule 2.133; Vaughn Russell Candy Co. v. Cookies In Bloom, Inc., 47 USPQ2d 1635, 1636 (TTAB 1998). With respect to amendments to the identification of goods, the Board will not approve a proposed amendment which involves an addition to the identification of goods. See Trademark Rule 2.71(a) ("The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services.") and Aries Systems Corp. v. World Book Inc., 26 USPQ2d 1926, 1930 (TTAB 1993) ("any revision to the description of goods in a registration or application cannot exceed the scope of the goods as currently identified in the registration or as set forth in the application").

Here, the proposed amended goods include the term "pastry reductions", which is not a term in common use. It does not appear in the U.S. Acceptable Identification of Goods and Services Manual, any applications or registrations in the USPTO search database, or as a unitary phrase appearing in the first few pages of results in an Internet search. Accordingly, without more information, the Board cannot determine how "pastry reductions" is a clarification of any of the existing goods.

Applicant is allowed until THIRTY DAYS from the mailing date of this order to submit evidence of the meaning of "pastry reductions" and of recognition of the term in the U.S. food industry, and a proposed amendment, with opposer's consent, which makes clear that "pastry reductions" are a clarification of "biscuits, buns; filled brioches; chocolate-filled brioches, fruit-filled brioches; fritters containing fruits; Viennese pastries; pains au chocolat, namely, chocolate-filled pastries; raisin breads, croissants, milk breads; gingerbread; fruit turnovers; pastries; sweet petit-fours; tarts; cakes; pancakes, waffles; edible decorations for cakes; confectionery made of sugar; fruit jellies, edible ices", and not an impermissible addition to the identification of goods.

Proceedings herein are suspended pending applicant's response, failing which the Board will resume proceedings to go forward on the goods as published for opposition.