

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

mc

Mailed: November 10, 2009

Cancellation No. 92050094

Whataburger Partnership L.P.

v.

Agroamerica Corporation

On November 3, 2009, the parties filed registrant's proposed amendment to its Registration No. 3389431, with petitioner's consent, and petitioner's withdrawal of the petition to cancel, contingent upon entry of the amendment.

By the proposed amendment registrant seeks to change the identification of goods from "Fresh fruits; Fresh vegetables" to "fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants."

Inasmuch as the amendment complies with all of the procedural requirements of Trademark Rule 2.173, it is clearly limiting in nature, and petitioner consents thereto, it is approved. See Trademark Rule 2.133(a).

The amendment will be forwarded to the Post Registration Branch of this Office for appropriate action in accordance with Section 7(e) of the Trademark Act.

The contingency in petitioner's withdrawal having now been met, the petition to cancel is dismissed in accordance with the agreement between the parties.

*By the Trademark Trial
and Appeal Board*