

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

CME/vw

Mailed: September 5, 2015

Cancellation No. 92060889

Chocolate Pkg. & Mfg. Corp.

v.

Tufako Enterprises Limited

By the Trademark Trial and Appeal Board:

On July 28, 2015, the parties filed a renewed stipulated motion to: (1) amend the goods identified in Respondent's involved Registration No. 3814581, along with the required fee and declaration, and (2) withdraw the cancellation without prejudice, contingent upon entry of the amendments. By the proposed amendments, Respondent seeks to delete International Class 32 from the involved registration¹ in its entirety, and to amend the identification of goods in International Classes 29 and 30 as follows:

International Class 29

From: Meat, fish, poultry and game; meat extracts; jellies, jams, compotes; eggs; edible oils and fats, olive oil; soups;

To: Jellies, jams, compotes; edible oils and fats, olive oil.

¹ The Board notes that International Class 32 is not subject to the cancellation action.

International Class 30

From: Coffee, cocoa, sugar, rice, tapioca, sago, artificial coffee; bread, pastry and confectionery, namely, pastilles made out of chocolate, fondants, fruit jellies; ices; honey, treacle, yeast, baking powder; salt, mustard; vinegar (including balsamic), sauces (condiments), namely, tomato sauces, pasta sauces, walnut sauces; spices; ice; sweets; candy; chocolate; biscuits; pasta;

To: Spices.

Inasmuch as the amendments comply with the requirements of Trademark Rule 2.173, are limiting in nature, and Petitioner consents thereto, the amendments are approved. *See* Trademark Rule 2.133(a). The amendments will be forwarded to the Post Registration Branch of this Office for entry of the amendments in accordance with Section 7(e) of the Trademark Act.²

Deletion of International Class 32

As noted, Respondent seeks to delete International Class 32 in its entirety. In a cancellation proceeding against any registration having multiple classes, if the Respondent files a request to amend the registration to delete an entire class sought to be cancelled, the request for amendment is, in effect, a voluntary surrender of the registration with respect to that class, and is governed by Trademark Rule § 2.134(a). In view thereof, and because Petitioner's consent is of record, Registration No. 3814581 will be cancelled in due course with respect to **Class 32 only**, pursuant to Section 7(e) of the Trademark Act.

The contingency in Petitioner's withdrawal having now been met, the petition to cancel is dismissed **without prejudice**.

² A copy of the Board's order granting the amendments, and Respondent's declaration, will be forwarded electronically for uploading to the record of the registration.