

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

Mark: **DUVILLAGE DE WARWICK & DESIGN**
Serial No: 76/304383

10-27-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Applicant: Fromage Côté S.A.

Law Office: 101

AMENDMENT AFTER PUBLICATION TO THE DRAWING OF THE MARK

INTRODUCTION

The above mentioned trademark application was published in the Official Gazette on December 10, 2002. Shratter Foods Incorporated obtained several extension of time to potentially oppose the application. The due date to oppose is not yet passed. Accordingly, the Applicant requests an amendment to the drawing of the mark after publication and respectfully asks that the TTAB forward this request to the photocomposition coordinator.

NEW DRAWING

Applicant hereby respectfully submits a modified version of the drawing of the mark. The new drawing is attached hereto as Attachment A. This modification does not materially alter the character of the mark. (See 37 C.F.R. part 2 §2.72 and TMEP § 1505.01(c)).

The modified drawing conveys the same overall commercial impression as the original mark. In fact the only modification in the new drawing is an increase in the size of the words « De Warwick», the drawing of those words being the same.

There is no addition or deletion on the new drawing as compared to the original drawing. This is a very good indication that the overall commercial

impression of the mark is not altered (See TMEP 807.14 (a)). For example, the proposed modifications are less important than a modification from the mark NY Jewellery Outlet to New-York Jewellery Outlet. In re: *Finlay Fine Jewelry Corp.*, 41 USPQ2d 1152 (TTAB 1996). It is also a lesser modification for example than modifying the mark «GRAN VINO MALAGA LARIOS» to «VINO DE MALAGA LARIOS». In re: *Larios S.A.*, 35 USPQ2d 1214 (TTAB 1995) or inverting the design portion of a mark as in *Visa International Service Association v. Life-Code Systems, Inc. supra*.

Accordingly, the Applicant believes that the modified mark contains what is the essence of the original mark.

We will be waiting for the confirmation of the acceptance of the new drawing.

The Applicant requests that the Office contact Simon Lemay at (418) 266-3064 should there be any question or comment about this letter.

Respectfully submitted

Date: OCTOBER, 23rd, 2003

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Attachment A