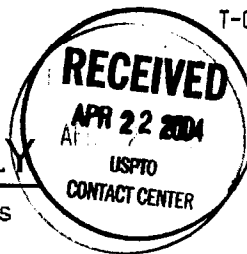


Simon Lemay
Direct line: (418) 266-3064
E-mail address: slemay@lavery.qc.ca

LAVERY, DE BILLY
BARRISTERS AND SOLICITORS



Lavery, de Billy
General Partnership

Suite 500
925 chemin Saint-Louis
Québec, Québec, G1S 1C1
Telephone: (418) 688-5000
Fax: (418) 688-3458

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TO: Trademark Trial and Appeal Board FROM: Simon Lemay

UNITED STATES PATENT AND TRADEMARK OFFICE
Firm
703-305-7786
Fax number
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April 22, 2004
Date
6
Number of pages (including this page)
412855-13
Our file

MESSAGE

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TM



Simon Lemay
Direct line: (418) 268-3084
E-mail address: slemay@lavery.qc.ca

Québec, April 22, 2004

By facsimile: (703) 305-7786

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD
2900 Crystal Drive
Arlington VA 22202-3513

RE: Trademark: **DUVILLAGE DE WARWICK & DESIGN**
Serial No: 76/304383
Applicant: Fromage Côté S.A.
Filing Date: August 27, 2001
Class: 29
Published: December 10, 2002
Law Office: 101
Our file: 412855-13

Madam,
Sir,

In the above mentioned file, the applicant has submitted an Amendment After Publication to the Drawing of the Mark on October 23, 2003. A copy is hereby attached for your reference.

This new drawing was submitted to the Examining Attorney, Mrs Zhaeleh Delaney. We recently had a telephone conversation with Mrs Delaney and she informed us that she approved the new drawing and returned the file to the TTAB.

As of today, we have not received any written confirmation from the TTAB that the new drawing is accepted.

The potential opponent, is thus in the obligation to file Request for Extension of Time to file an opposition regularly with the associated costs with such repetitive requests.

Québec City
Suite 500
925 chemin Saint-Louis
Québec, Québec
G1R 1C1
Telephone: (418) 688-3000
Fax: (418) 688-3438

Montréal
Suite 4000
1 Place Villa Maria
Montréal, Québec
H3B 4M4
Telephone: (514) 871-1522
Fax: (514) 871-8977

Laval
Suite 500
3080 boul. Le Carrefour
Laval, Québec
H7T 2R5
Telephone: (450) 978-8100
Fax: (450) 978-8111

Ottawa
Suite 1810
360 Albert Street
Ottawa, Ontario
K1R 7X7
Telephone: (613) 594-4936
Fax: (613) 594-8783

Web Site
www.laverydebilly.com

Lawyers and patent and trade-mark agents

LAVERY, DE BILLY

GENERAL PARTNERSHIP

- 2 -

Accordingly, we would appreciate receiving at your earliest convenience a written confirmation that the new drawing is accepted and has been put on file. This will allow the potential opponent to terminate the opposition proceedings and the applicant to receive its Certificate of registration.

A copy of this letter is sent to the Attorney for opponent.

Do not hesitate to contact the undersigned at (418) 266-3064 should you have any question or comment in relation with this letter.

Sincerely,

LAVERY, DE BILLY

Simon Lemay

SIL/lpb
Copy to Robert V. Vickers

h:\412855\00013\correspondance\uspto 2004-04-22 slm.doc

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

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

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

By: 

Simon Lemay
Lavery, de Billy
925, chemin Saint-Louis, bureau 500
Québec (Québec) G1S 1C1

Attorneys for Applicant
Fromage Côté S.A.



Attachment A