

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: January 27, 2006

In re Paradise Beverages,
Inc.

Serial No. 78337999 (parent)
Serial No. 78976612 (child)
Filed: 12/08/2003

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On December 2, 2005, the UTU/Divisional Unit of the USPTO has completed applicant's request to divide the application. The goods and/or services in International Class 40 have been placed in the newly created child application, Serial No. 78976612. The goods and/or services in International Class 30 remain in the original parent application, Serial No. 78337999.

The basis of the final refusal, issued on May 6, 2005, is the unacceptability of the identification of goods, and the amendment is an attempt by applicant to submit an acceptable identification. Accordingly, action on the appeal is suspended and the file is remanded to the

Trademark Examining Attorney for consideration of the amendment. If the amendment is accepted, the appeal will be moot. If the amendment is found unacceptable, the Examining Attorney should issue an Office Action indicating the reasons why the proposed amendment is unacceptable and return the file to the Board, which will then allow applicant time to file its appeal brief.¹ However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

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¹ If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, then the Examining Attorney may not issue a final refusal unless application was previously advised that amendments broadening the identification are prohibited under Trademark Rule 2.71(a).