

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78951737
LAW OFFICE ASSIGNED	LAW OFFICE 107
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (029)(current)	
INTERNATIONAL CLASS	029
DESCRIPTION	
eggs; processed eggs, namely, powdered eggs and frozen eggs; seasoned powder for sprinkling on rice, namely, dried flakes of liver for sprinkling on rice in hot water (ochazuke-nori); foods in the nature of processed vegetables	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	5073592
FOREIGN REGISTRATION COUNTRY	Japan
FOREIGN REGISTRATION DATE	08/31/2007
FOREIGN EXPIRATION DATE	08/31/2017
GOODS AND/OR SERVICES SECTION (029)(proposed)	
INTERNATIONAL CLASS	029
TRACKED TEXT DESCRIPTION	
eggs; <u>foods in the nature of processed vegetables, namely processed mushrooms;</u> processed eggs, namely, powdered eggs and frozen eggs; seasoned powder for sprinkling on rice, namely, dried flakes of liver for sprinkling on rice in hot water (ochazuke-nori); foods in the nature of processed vegetables	

FINAL DESCRIPTION	
foods in the nature of processed vegetables, namely processed mushrooms	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	5073592
FOREIGN REGISTRATION COUNTRY	Japan
FOREIGN REGISTRATION DATE	08/31/2007
FOREIGN EXPIRATION DATE	08/31/2017
GOODS AND/OR SERVICES SECTION (030)(current)	
INTERNATIONAL CLASS	030
DESCRIPTION	
aromatic preparations for food except refined petroleum products, in the nature of food flavorings; tea; coffee; cocoa; ice; bread; rice bread; bread from rice powder; seasonings; seasonings for sauteed vegetables; spices; coffee beans; fried pork and vegetable dumplings; vegetable dumplings with beans; vegetable dumplings with green peppers; sandwiches; raviolis ala vapeur; sushi; sushi using rice; fried octopus dumplings; steamed meat buns in the nature of steamed buns stuffed with minced meat (niku-manjuh); hamburger sandwiches; pizzas; hot dog sandwiches; meat pies; ravioli; yeast powder; yeast; baking powder; preparations for making instant confectionery products, namely, cake mixes; curry powders; roasted and ground sesame seeds; and buckwheat noodles; husked oats	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (030)(proposed)	
INTERNATIONAL CLASS	030
TRACKED TEXT DESCRIPTION	
aromatic preparations for food except refined petroleum products, in the nature of food flavorings; fried pork and vegetable dumplings; tea; coffee; cocoa; ice; bread; rice bread; bread from rice powder; seasonings; seasonings for sauteed vegetables; spices; coffee beans; vegetable dumplings with beans; vegetable dumplings with green peppers; sandwiches; raviolis ala vapeur; sushi; sushi using rice; fried octopus dumplings; steamed meat buns in the nature of steamed buns stuffed with minced meat (niku-manjuh); hamburger sandwiches; pizzas; hot dog sandwiches; meat pies; ravioli; yeast powder; yeast; baking powder; preparations for making instant confectionery products, namely, cake mixes; curry powders; roasted and ground sesame seeds; and buckwheat noodles; husked oats	

FINAL DESCRIPTION	fried pork and vegetable dumplings
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (031)(current)	
INTERNATIONAL CLASS	031
DESCRIPTION	
unprocessed hops; copra; protein for animal consumption; animal feed; live mammals; live fish not for food purposes, live birds and insects; silkworm eggs; cocoons for egg production; eggs for hatching; urushi tree seeds; and palm tree leaves	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (031)(proposed)	
INTERNATIONAL CLASS	031
TRACKED TEXT DESCRIPTION	
unprocessed hops; copra; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; protein for animal consumption; animal feed; live mammals; live fish not for food purposes, live birds and insects; silkworm eggs; cocoons for egg production; eggs for hatching; urushi tree seeds; and palm tree leaves	
FINAL DESCRIPTION	
protein for animal consumption, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (032)(current)	
INTERNATIONAL CLASS	032
DESCRIPTION	
Soft drinks; soft drinks with apples; apple-derived soft drinks; fruit beverages; fruit beverages with apples; apple-derived soft drinks; soft drinks, namely, vegetable juices with apples; and soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (032)(proposed)	

INTERNATIONAL CLASS	032
TRACKED TEXT DESCRIPTION	
Soft drinks; soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients; soft drinks with apples; apple-derived soft drinks; fruit beverages; fruit beverages with apples; apple-derived soft drinks; soft drinks, namely, vegetable juices with apples; and soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients	
FINAL DESCRIPTION	
soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	
MISCELLANEOUS FILE NAME(S)	
ORIGINAL PDF FILE	mis-98141141226-142200312 . 060604 ResponseOA3-12-12P.pdf
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT16\IMAGEOUT16\789\517\78951737\xml3\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\789\517\78951737\xml3\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\789\517\78951737\xml3\RFR0004.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\789\517\78951737\xml3\RFR0007.JPG
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Darren Crew/
SIGNATORY'S NAME	Darren Crew
SIGNATORY'S POSITION	Attorney of record, D.C. bar member
SIGNATORY'S PHONE NUMBER	202-659-2930
DATE SIGNED	09/12/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO

FILING INFORMATION SECTION

SUBMIT DATE	Wed Sep 12 15:54:46 EDT 2012
TEAS STAMP	USPTO/RFR-98.141.141.226- 20120912155446843369-7895 1737-490b51f6384bc633a5b0 7dc2d3e68dd40-N/A-N/A-201 20912142200312305

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **78951737** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 029 for eggs; processed eggs, namely, powdered eggs and frozen eggs; seasoned powder for sprinkling on rice, namely, dried flakes of liver for sprinkling on rice in hot water (ochazuke-nori); foods in the nature of processed vegetables

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [Japan registration number 5073592 registered 08/31/2007 with a renewal date of _____ and an expiration date of 08/31/2017], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: ~~eggs; processed eggs, namely, powdered eggs and frozen eggs; seasoned powder for sprinkling on rice, namely, dried flakes of liver for sprinkling on rice in hot water (ochazuke-nori); foods in the nature of processed vegetables~~
eggs; foods in the nature of processed vegetables, namely processed mushrooms

Class 029 for foods in the nature of processed vegetables, namely processed mushrooms

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use

the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [Japan registration number 5073592 registered 08/31/2007 with a renewal date of _____ and an expiration date of 08/31/2017], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 030 for aromatic preparations for food except refined petroleum products, in the nature of food flavorings; tea; coffee; cocoa; ice; bread; rice bread; bread from rice powder; seasonings; seasonings for sauteed vegetables; spices; coffee beans; fried pork and vegetable dumplings; vegetable dumplings with beans; vegetable dumplings with green peppers; sandwiches; raviolis ala vapeur; sushi; sushi using rice; fried octopus dumplings; steamed meat buns in the nature of steamed buns stuffed with minced meat (niku-manjuh); hamburger sandwiches; pizzas; hot dog sandwiches; meat pies; ravioli; yeast powder; yeast; baking powder; preparations for making instant confectionery products, namely, cake mixes; curry powders; roasted and ground sesame seeds; and buckwheat noodles; husked oats

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: ~~aromatic preparations for food except refined petroleum products, in the nature of food flavorings; tea; coffee; cocoa; ice; bread; rice bread; bread from rice powder; seasonings; seasonings for sauteed vegetables; spices; coffee beans; vegetable dumplings with beans; vegetable dumplings with green peppers; sandwiches; raviolis ala vapeur; sushi; sushi using rice; fried octopus dumplings; steamed meat buns in the nature of steamed buns stuffed with minced meat (niku-manjuh); hamburger sandwiches; pizzas; hot dog sandwiches; meat pies; ravioli; yeast powder; yeast; baking powder; preparations for making instant confectionery products, namely, cake mixes; curry powders; roasted and ground sesame seeds; and buckwheat noodles; husked oats~~

Class 030 for fried pork and vegetable dumplings

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 031 for unprocessed hops; copra; protein for animal consumption; animal feed; live mammals; live fish not for food purposes, live birds and insects; silkworm eggs; cocoons for egg production; eggs for hatching; urushi tree seeds; and palm tree leaves

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: ~~unprocessed hops; protein for animal consumption, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; eopra; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; protein for animal consumption; animal feed; live mammals; live fish not for food purposes, live birds and insects; silkworm eggs; cocoons for egg production; eggs for hatching; urushi tree seeds; and palm tree leaves~~

Class 031 for protein for animal consumption, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 032 for Soft drinks; soft drinks with apples; apple-derived soft drinks; fruit beverages; fruit beverages with apples; apple-derived soft drinks; soft drinks, namely, vegetable juices with apples; and soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: ~~Soft drinks; soft drinks with apples; apple-derived soft drinks; fruit beverages; fruit beverages with~~ soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients;

~~apples; apple-derived soft drinks; soft drinks, namely, vegetable juices with apples; and soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients~~

Class 032 for soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

ADDITIONAL STATEMENTS

Miscellaneous Statement

Original PDF file:

[mis-98141141226-142200312 . 060604 ResponseOA3-12-12P.pdf](#)

Converted PDF file(s) (6 pages)

[Miscellaneous File1](#)

[Miscellaneous File2](#)

[Miscellaneous File3](#)

[Miscellaneous File4](#)

[Miscellaneous File5](#)

[Miscellaneous File6](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Darren Crew/ Date: 09/12/2012

Signatory's Name: Darren Crew

Signatory's Position: Attorney of record, D.C. bar member

Signatory's Phone Number: 202-659-2930

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 78951737

Internet Transmission Date: Wed Sep 12 15:54:46 EDT 2012

TEAS Stamp: USPTO/RFR-98.141.141.226-201209121554468

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3e68dd40-N/A-N/A-20120912142200312305

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of: **HOKUTO Co. Ltd.**

Serial Number: **78/951,737**

Filed: **August 14, 2006**

Law Office: **107**

Mark: **HOKUTO**

Examiner: **SNYDER, III, Nelson B.**

STATEMENT SUPPLEMENTAL TO TRADEMARK RESPONSE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451
Sir:

Date: September 12, 2012

In reply to the Office Action dated March 12, 2012, and supplemental to the Response filed September 12, 2012, entry of the following remarks, further examination, and reconsideration are respectfully requested.

REMARKS

A. Telephone Interview

Applicant and Applicant's attorney thank the Examining Attorney Nelson B. Snyder III for the interview courteously granted on September 10, 2012. The special attention the Examining Attorney paid to the instant application is noted with appreciation. During the Interview, the compound phrases "hokuto-18" and "hokuto-NT100" were discussed, as well as the listing of identified goods concerning mushrooms and aspects of the Office Action dated March 12, 2012.

B. Section 2(e)(1) Refusal

Regarding the significance of the wording in the mark, please note the following.

For mushrooms, the term "HOKUTO" alone is not used to identify a varietal or cultivar. Regarding mushrooms, the term "HOKUTO" is not descriptive.

Regarding varietals or cultivars for mushrooms, there are compound phrases that exist, such as "HOKUTO-18" or "HOKUTO-NT100." Those names are used for the respective specified varieties, not a common name of mushroom. Since the names in question are used each for "one breed variety selected from a variety of mushrooms," these are not meant to be general names for mushrooms.

The term “HOKUTO” is never severed from those compound phrases, concerning mushrooms. The term “HOKUTO” can never be severed from those compound phrases, concerning mushrooms.

The designation “HOKUTO” is not a generic name, regarding mushrooms.

In view of the Examining Attorney’s concerns, the goods designated by this trademark application may be restricted only to the goods in the amended listing of identified goods, excluding hokuto-18 and hokuto-NT100, for example.

Accordingly, in view of the amendments and remarks, Applicant respectfully requests that the Examining Attorney withdraw the Section 2(e)(1) Refusal.

C. Mark Significance

In the final Office Action dated March 12, 2012, on page 2, the Examining Attorney indicated that:

“The applicant must specify which of the identified goods include apples, mushrooms, rice, mint and/or beans.”

In reply, Applicant provides this response in view of the amended listing of identified goods:

None of the identified goods include apples, rice, mint and/or beans.

**U.S. Trademark Appln. S.N.: 78/951,737
Reply filed on September 12, 2012
In response to OA dated March 12, 2012**

Identified goods that include mushrooms are as follows:

Class 029: foods in the nature of processed vegetables, namely processed mushrooms

Class 030: fried pork and vegetable dumplings

Class 031: protein for animal consumption, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms

Class 032: soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients

In the final Office Action dated March 12, 2012, on page 2, the Examining Attorney indicated that:

“The applicant must specify which of the identified goods include apples, mushrooms, rice, mint and/or beans.”

In reply, Applicant provides this response in view of the amended listing of identified goods:

None of the identified goods are derived from apples, rice, mint and/or beans.

Identified goods that are derived from mushrooms are as follows:

Class 029: foods in the nature of processed vegetables, namely processed mushrooms

Class 030: fried pork and vegetable dumplings

Class 031: protein for animal consumption, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms; animal feed, namely fresh mushrooms, raw mushrooms, and unprocessed mushrooms

Class 032: soft drinks, namely, sports drinks enhanced with mushroom-derived nutrients

Accordingly, in view of the amendments and remarks, Applicant respectfully submits that the Examining Attorney's requirements have been satisfied.

D. Identification and Classification of Goods

The listing of identified goods in International Classes 029, 030, 031, and 032 has been amended, in response to the final Office Action dated March 12, 2012.

Accordingly, in view of the amendments and remarks, Applicant respectfully submits that all of the Examining Attorney's requirements have been satisfied.

In view of the foregoing amendments and remarks, it is respectfully submitted that all the Examining Attorney's objections have been overcome. Therefore, it is respectfully requested that the Examining Attorney withdraw the objections and publish this mark for opposition.

U.S. Trademark Appln. S.N.: 78/951,737
Reply filed on September 12, 2012
In response to OA dated March 12, 2012

In the event that any fees are due with respect to this paper, please charge our Deposit
Account No. 01-2340.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP.

/Darren Crew/

Darren Crew
Attorney for Applicant
Reg. No. 37,806

DC/kn
Atty. Docket No. **060604**
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