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

Proceeding	85025689
Applicant	Cornfields, Inc.
Applied for Mark	G.H. CRETORS
Correspondence Address	RICHARD B. BIAGI NEAL & MCDEVITT, LLC 1776 ASH ST NORTHFIELD, IL 60093-3001 UNITED STATES pto@nealmcdevitt.com
Submission	Applicants Request for Remand and Amendment
Attachments	request for remand.61158.0057.20120307.pdf (5 pages)(732859 bytes)
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Signature	/Richard B. Biagi/
Date	03/07/2012

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

In Re Application of: Cornfields, Inc.)	
)	
Serial No.: 85/025,689)	Trademark Examining
)	Attorney: Ingrid C. Eulin
Filed: March 5, 2012)	
)	Law Office 111
Mark: G.H. CRETORS)	

**APPLICANT’S REQUEST FOR REMAND TO
SUBMIT ADDITIONAL EVIDENCE**

Applicant Cornfields, Inc., respectfully requests that the Board, pursuant to §1209.04 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”), remand U.S. Trademark Application Serial No. 85/025,689, for the mark G.H. CRETORS, to the Examining Attorney for further consideration in light of the attached additional evidence.

Applicant respectfully states that there is good cause for its delay in filing the attached additional evidence related to the Examiner’s prior refusal. Indeed, on February 10, 2011, the Examining Attorney issued a Final Office Action refusing registration of the subject mark, citing a number of registrations for CRETORS formative marks. On August 10, 2011, Applicant filed its Request for Reconsideration which included a Consent Agreement between Applicant and the Registrant of the cited registrations. Thereafter, on September 5, 2011, the Examiner issued a second Final Office Action and refused registration on the grounds that the aforementioned Consent Agreement was allegedly insufficient for failure to include additional CRETORS formative registrations.

Following the issuance of the second Final Office Action on September 5, 2011, Applicant and Registrant diligently worked to address the Examiner’s concerns and subsequently

drafted a revised Consent Agreement. However, for reasons not anticipated by the parties or their respective counsel, the new Consent Agreement was not able to be fully executed until the early morning of March 6, 2012 – one day following Applicant’s response deadline to the Final Office Action of September 5, 2011. See Exhibit 1, attached hereto.

When it became clear that Applicant would be unable to secure Registrant’s signature on the new Consent Agreement prior to the March 5th deadline, it timely filed a Notice of Appeal with the Board in order to preserve the pending application. Applicant now brings this request before the Board two days following the filing of its Notice of Appeal. As a result, Applicant has shown good cause for its delay in submitting the additional evidence attached hereto. See TBMP §1207.02.

WHEREFORE, Applicant prays that the Board grant its request and remand the subject application to the Examining Attorney for further consideration in light of the additional evidence referenced herein.

Respectfully submitted,

Date: March 7, 2012

/s/ Richard B. Biagi

Richard B. Biagi
Kevin J. McDevitt
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Attorneys for Applicant

EXHIBIT 1

TRADEMARK REGISTRATION CONSENT

29th THIS TRADEMARK REGISTRATION CONSENT (the "Consent") is entered into this day of February, 2012 (the "Effective Date"), by and between C. CRETORS & CO., an Illinois corporation located at 3243 North California Avenue, Chicago, IL 60618 ("C. Cretors"), and CORNFIELDS, INC., an Illinois Corporation located at 3898 Sunset Avenue, Waukegan, IL 60087 ("Cornfields").

Background

- A. C. Cretors owns U.S. Trademark Registration Nos. 1,735,690, 1,074,491, 514,780 and 1,346,562 (the "CRETORS Registrations") for the mark CRETORS POPCORN SCOOP, CRETORS TOPPER and CRETORS (the "CRETORS Marks"), covering publications; namely, newsletters relating to the popcorn industry, commercial dispenser for applying heated butter and butter flavored liquid to popcorn, pop corn machines and seasonings for popped popcorn (the "C. Cretors Goods").
- B. Cornfields has filed trademark application Serial No. 85/025,689 (the "G.H. CRETORS Application") to register the mark G.H. CRETORS (the "G.H. CRETORS Mark") for use with popped popcorn in the United States and elsewhere.
- C. C. Cretors has filed trademark applications Serial No. 85129485 and 85259496 (the "C. Cretors Applications") to register the marks CRETORS CRUNCH (in typed form and with a design element; together, the "CRETORS CRUNCH Marks"), both for use with food starch that causes expansion of a variety of food products under heat.
- D. Registration of the G.H. CRETORS Mark, as reflected in the G.H. CRETORS Application, has been refused based on an alleged likelihood of confusion with the CRETORS Mark, as reflected in the CRETORS Registrations.
- E. Further action on the C. Cretors Applications has been suspended based on a possible likelihood of confusion of the G.H. Cretors Mark, as reflected in the G.H. CRETORS Application.
- D. Cornfields has submitted an identification of goods in the G.H. CRETORS Application which reads as follows: popped popcorn (the "G.H. CRETORS Goods").

NOW, THEREFORE, for the reasons set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be bound, hereby agree as follows:

1. No Likelihood of Confusion. The parties believe that use of their respective marks with the C. CRETORS Goods including the goods listed in the C. Cretors Applications) and the G.H. CRETORS Goods, respectively, is not likely to lead to consumer confusion.
2. Consent to Use and Registration by C. Cretors. C. Cretors consents to Cornfields' registration of the G.H. CRETORS Mark with the G.H. CRETORS Goods.
3. Consent to Use and Registration by Cornfields. Cornfields consents to C. Cretors' registration of the CRETORS CRUNCH Marks with food starch that causes expansion of a variety of food products under heat.

3. Further Actions. The parties agree to take such steps as are reasonably necessary to eliminate or minimize confusion between their respective marks should such confusion occur or become likely in the future.

IN WITNESS WHEREOF, the parties have signed this agreement to take effect on the Effective Date.

C. CRETORS & CO.

CORNFIELDS, INC.

BY: 

By: 