

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

tww

Mailed: October 2, 2002

Opposition No. 122,692

COLOMBINA S.A.

v.

ARCOR S.A.I.C.

**Thomas W. Wellington**  
**Interlocutory Attorney,**  
**Trademark Trial and Appeal Board:**

On April 17, 2002, the Board denied applicant's proposed amendment to its application Serial No. 75/851,770.

On May 20, 2002, applicant filed a second proposed amendment to its application Serial No. 75/851,770, with opposer's consent.

Opposer previously filed on January 28, 2002, a withdrawal of the opposition contingent upon entry of applicant's *first* proposed amendment to the application.

By way of the second proposed amendment applicant seeks to change the identification of goods **from** "chocolate products, namely, chocolate bars, bonbons, chocolate covered cookies, chocolate covered cookies with fruit, chocolate and caramel turrone, and candy covered chocolate" **to** "chocolate products, namely, chocolate covered alfajores and chocolate covered wafers."

Inasmuch as the proposed second amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

Because the contingency in opposer's January 28, 2002 withdrawal involved the first proposed amendment to the application, the opposition cannot be dismissed pursuant to the withdrawal. However, if Board's approval herein of applicant's second proposed amendment to the identification of goods resolves the dispute herein, opposer is allowed until thirty days from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

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