

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

MBA/mt

Mailed: July 24, 2008

Opposition No. 91167763

Mars, Incorporated

v.

Walton & Post, Inc.

Michael B. Adlin, Interlocutory Attorney:

On June 23, 2008, applicant filed a proposed amendment to its application Serial No. 76572383. By the proposed amendment, applicant seeks to change the identification of goods **from** "Maraschino cherries, canned fruits, canned vegetables, sausages, corn oil, instant mashed potatoes, and soups" **to** "Maraschino cherries, canned fruits, canned vegetables, sausages, corn oil, and soups" in International Class 029; and **from** "Pancake syrup, chocolate flavored syrup, strawberry topping syrup, mayonnaise, ketchup, mustard, popped popcorn, processed unpopped popcorn, macaroni and cheese, pancake mixes, cake mixes, cake frostings, white vinegar, cider vinegar, low calorie sugar substitute, and baking soda" **to** "Pancake syrup, chocolate flavored syrup, strawberry topping syrup, mayonnaise, ketchup, mustard, popped popcorn, processed unpopped popcorn, pancake mixes, cake mixes, cake frostings, white vinegar, cider vinegar, low calorie sugar

substitute, and baking soda" in International Class 030. The goods in International Class 32 remain unchanged.

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

If this 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). The parties consent motion to extend applicant's time to answer the notice of opposition, filed June 24, 2008, is noted, and consideration of it is deferred until it is determined whether this proceeding will go forward on the amended application.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule

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and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>