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

Proceeding	91172967
Party	Defendant Terra Preta, LLC
Correspondence Address	PETER I. BERNSTEIN KEITH A. WELTSCH SCULLY, SCOTT GARDEN CITY, NY 11530 UNITED STATES intprop@ssmp.com
Submission	Motion to Amend Application
Filer's Name	Keith A. Weltsch
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Date	12/11/2009
Attachments	Motion to Amend Application.pdf ( 3 pages )(1587195 bytes )

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

In the matter of Application Serial No. 78-536,721  
Filed on December 21, 2004  
For the Mark TERRA PRETA  
Published in the *Official Gazette* (Trademark) on May 23, 2006

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Dana Alexander, Inc. :  
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           Opposer, :  
 :  
 :           Opposition No. 91172967  
 v. :  
 :  
 Terra Preta, LLC, :  
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           Applicant. :  
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**MOTION TO AMEND APPLICATION**  
**WITH OPPOSER'S CONSENT**

Pursuant to the terms of the Settlement Agreement, Applicant respectfully requests that the goods in International Classes 29 and 31 be amended as follows:

Applesauce, baked beans, blanched nuts; blended oil for food; candied nuts; canned or bottled fruits; canned or bottled vegetables, excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; canned processed olives; canned tomatoes; canned, cooked or otherwise processed tomatoes; cocoa butter for food purposes; coconut oil; coconut oil and fat for food; coconut powder; cole slaw; compotes; cooking oil; corn oil for food; cranberry sauce; cut fruits that are fresh; cut fruits that are canned; cut fruits that are bottled; cut vegetables that are fresh excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; cut vegetables that are canned excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; cut vegetables that are bottled excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; dried beans; dried fruits; dried soybeans; dried vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; fermented soybeans; freeze-dried tofu pieces; fried tofu pieces; frozen fruit; frozen vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; fruit conserves; fruit leathers; fruit paste; fruit preserves; fruit pulps; fruit salads; fruit topping; fruits in general processed; fruits in general canned; fruits in general preserved; fruits preserved in alcohol;

gherkins; ground almonds; guava paste; lemon curd; nut butters in general; nut meats; nutmeats; nuts that are shelled, roasted or otherwise processed; oil in the context of vegetable; oil that is edible; olive oil; olive oil in the context of food; olive pastes; palm oil that is for food; peanut butter; peanut oil for food; peanut-based food beverages; peeled tomatoes; pickled fruits; pickled vegetables; pickled watermelon rind; pickles; prepared pistachio nuts; prepared walnuts; preserved vegetables in oil; preserved and dried olives; preserved and dried vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; pre-cut vegetable salad; processed apples, processed almonds; processed apricots, processed artichokes, processed asparagus, processed avocados, processed bean sprouts, processed beans, processed blueberries, processed cabbage; processed cactus for food purposes; processed cherries, processed coconuts, processed dates, processed edible seeds, processed garlic for use as a vegetable, processed ginseng for use as a vegetable, processed lemons, processed mushrooms, processed oils and fats for food; processed olive puree; processed olives; processed onions, processed oranges, processed peaches; processed peels; processed peppers; processed pimientos; processed pumpkin seeds; processed quince; processed vegetables and fruit excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; raisins; grape oil; rennet; rice bran oil for food; salad oil; salads except macaroni, rice and pasta salad; sesame oil for food; sliced fruits fresh, canned or bottled; sliced vegetables fresh, canned or bottled excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; soybean milk in the context of soy milk; soybean oil; soybean oil for cooking; soy-based food bars; soy-based food beverage used as a milk substitute; spicy pickles; sunflower oil for food; tinned olives; tinned tomatoes; tofu; tomato extracts; tomato paste; tomato puree; vegetable mousse; vegetable oils; vegetable oils and fats for food; vegetable paste; vegetable puree; vegetable salads; vegetables, namely instant and frozen vegetables, excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; vegetable-based chocolate food beverages; vegetable-based food beverages; cheese; milk; meat; eggs; poultry in general; and pork; cooked and grilled vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca and other root vegetables; cooked olives **in International Class 29**.

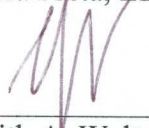
Agricultural grains for planting; agricultural seeds; apple tree seeds; chives fresh, raw and unprocessed; fresh apples; fresh apricots; fresh artichokes; fresh asparagus; fresh avocados; fresh bananas; fresh bean sprouts; fresh beans; fresh blueberries; fresh cabbage; fresh coconuts; fresh corn; fresh dates; fresh fruits; fresh garlic; fresh ginger; fresh herbs; fresh lemons; fresh mushrooms; fresh nuts; fresh oats; fresh olives; fresh onions; fresh oranges; fresh peaches; fresh peppers; fresh quince; fresh tomatoes; fresh truffles; fresh vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; fresh wheat; fresh zucchini; fruit seeds; fruits in general unprocessed; fruits in general raw; fruits in general fresh; grass seed; grass seeds; hops that is fresh; hops that is raw; hops that is unprocessed; plant seeds; raw apples; raw apricots; raw artichokes; raw asparagus; raw avocados; raw bean sprouts; raw beans; raw blueberries; raw cabbage; raw coconuts; raw corn, raw dates; raw fruits; raw garlic; raw ginger; raw herbs; raw lemons; raw mushrooms; raw nuts; raw oats; raw olives; raw onions; raw oranges; raw peaches; raw peppers; raw popcorn that is unprocessed kernels; raw quince; raw tomatoes; raw vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; raw wheat; raw zucchini; rye seed; seeds and bulbs, seeds for agricultural purposes; seeds for flowers; seeds for fruit and vegetables; seeds for horticultural purposes; sowing seeds; sugar cane; unprocessed apples; unprocessed apricots; unprocessed artichokes; unprocessed asparagus; unprocessed avocados; unprocessed bean sprouts; unprocessed beans; unprocessed

blueberries; unprocessed cabbage; unprocessed cereals; unprocessed coconuts; unprocessed corn; unprocessed dates; unprocessed fruits; unprocessed garlic; unprocessed ginger; unprocessed grain; unprocessed grains for eating; unprocessed herbs; unprocessed lemons; unprocessed mushrooms; unprocessed nuts; unprocessed oats; unprocessed olives; unprocessed onions; unprocessed oranges; unprocessed peaches; unprocessed peppers; unprocessed quince; unprocessed rice; unprocessed tomatoes; unprocessed vegetables excluding yams, beets, potatoes, taro, sweet potatoes, yucca, and other root vegetables; unprocessed wheat; unprocessed zucchini; wheat seed; wildlife seed mixtures; young fresh soybeans in the pod, **in International Class 31.**

Applicant has discussed this matter with counsel for Opposer, who has indicated that she has no objection and affirmatively consents to the proposed amendment to the goods.

Respectfully submitted,

Terra Preta, LLC



Dated: December 11, 2009

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

The undersigned hereby certified that a copy of this paper has been served upon all parties, at their address record by facsimile or e-mail (by agreement only) on December 11, 2009.

**kgarrone@mccarter.com**



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Keith A. Weltsch