

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

am/gcp

Mailed: April 15, 2009

Opposition No. 91176125

National Tobacco Company,  
L.P.

v.

Beech-Nut Nutrition  
Corporation

**George C. Pologeorgis, Interlocutory Attorney:**

On April 2, 2009, applicant filed a second proposed amendment to its application Serial No. 78666753, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of goods in International Classes 18 and 21 as follows:

Class 18

from: "diaper bags, tote bags, backpacks duffel bags, fanny packs and waist packs."

to: "diaper bags, tote bags, backpacks duffel bags, fanny packs and waist packs all for use by infant and child care-givers as a secondary source indicator of trademark owner's infant-related products."

Class 21

from: "cooler bags."

to: "cooler bags for use by infant or child care-givers as a secondary source indicator of trademark owner's infant-related products."

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.<sup>1</sup> See Trademark Rule 2.106(c).

Proceedings are otherwise suspended.

**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

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<sup>1</sup>The Board notes that applicant requested that the proceeding be dismissed without prejudice upon the Board's acceptance of its proposed amendment. However, the Board notes that opposer did not provide its written consent to the withdrawal within the body of applicant's motion to amend the application. Accordingly, as noted above, to the extent the approved amendment resolves the dispute herein; opposer must affirmatively provide its request for withdrawal of the opposition by filing such a request with the Board pursuant to the instant order.

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](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 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>