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

Proceeding	91179037
Party	Defendant Windsor Quality Food Company, Ltd.
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Signature	/JRader/
Date	10/24/2008
Attachments	Applicant's Motion on Consent to Amend Trademark Application.pdf (5 pages) (147704 bytes)

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

GRANDE CHEESE COMPANY,)	
)	
Opposer)	
)	Opposition No. 91179037
)	
WINDSOR QUALITY FOOD COMPANY,)	
LTD)	
)	
Applicant)	

BOX TTAB
COMMISSIONER FOR TRADEMARKS
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT’S MOTION ON CONSENT TO AMEND TRADEMARK APPLICATION
UNDER 37 CFR § 2.133

Pursuant to 37 CFR § 2.133, Windsor Quality Food Company, Ltd. (“Applicant”), through its authorized attorney, respectfully requests amendment of Application No. 76/668,710 for the mark “GRÁND-É-OLI’S” to omit the accents in the mark and to replace the letter “É” with a letter “I” as shown in the new drawing submitted herewith. The applicant has an intent to use its altered form of the mark, “GRAND-I-OLI’S,” in interstate commerce. In accordance with Rule 2.133, a new drawing of the mark is submitted herewith. The Board is hereby authorized to charge any and all payments to file this motion and amendment to Deposit Account No. 500449.

Applicant has requested and has received the consent to this request for amendment of Application No. 76/668,710 from Grande Cheese Company (“Opposer”). Applicant requests this amendment pursuant to a settlement agreement entered into by Applicant and Opposer. Accordingly, Applicant and Opposer request this amendment of Application No. 76/668,710 in

accordance with their agreement to resolve this matter amicably and without unnecessary expenditure of the Board's resources.

REMARKS

Applicant respectfully submits that amendment of U.S. Application No. 76/668,710, as described, does not materially alter the character of the mark. 37 C.F.R. § 2.72(b) states:

(b) In an application based on a bona fide intention to use a mark in commerce under section 1(b) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The specimens filed with an amendment to allege use or statement of use, or substitute specimens filed under § 2.59(b), support the proposed amendment; and

(2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark filed with the original application.

Applicant respectfully submits that amendment of U.S. Application No. 76/668,710, which retains the term "GRAND-I-OLI'S," while removing the accents from the mark and changing the letter "E" to "I" does not materially alter the character of the mark. The application when so amended still contains registrable matter and is registrable as a whole. Additionally, the proposed amendment does not render the mark sufficiently different as to require republication in order to present the mark fairly for opposition. The amended mark contains what is the essence of the original mark. The accents and letter "E" that were originally incorporated in the mark are not integrated into the mark in such a way that it is necessary for recognition of the mark. The amended mark still comprises the term "GRAND-I-OLI'S." The only changes to the mark are removal of insignificant accents and changing the letter "E" to an "I." The overall commercial impression created by the mark remains the same.

CONCLUSION

For the foregoing reasons, amendment of U.S. Application No. 76/668,710 to delete the language accents and change the letter "E" to an "I" is respectfully requested. This motion is consented by Opposer and a copy of this motion to consent is being sent to Opposer.

Respectfully submitted,

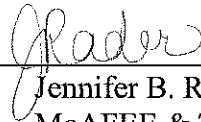


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by United States mail, postage prepaid, to the following counsel on this 24th day of October, 2008:

Marta S. Levine
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DRAWING PAGE

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Goods: Ravioli

GRAND-I-OLI'S

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