

ESTTA Tracking number: **ESTTA202440**

Filing date: **04/02/2008**

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

Proceeding	91181543
Party	Defendant Danico Enterprises, Inc.
Correspondence Address	Dmitry Mazisyuk Law Office of Dmitry Mazisyuk 15250 Ventura Boulevard, Suite 1220 Sherman Oaks, CA 91403 UNITED STATES dmlaw@sbcglobal.net
Submission	Other Motions/Papers
Filer's Name	Dmitry Mazisyuk
Filer's e-mail	dmlaw@sbcglobal.net
Signature	/dmitrymazisyuk/
Date	04/02/2008
Attachments	Stipulated Motion to Amend Application.tif ( 5 pages )(205674 bytes )

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

In re the Application of Danico Enterprises, Inc.

Serial No.: 76/559201  
Filed: November 12, 2003  
Trademark: IMPERIAL  
Published: July 3, 2007

Spenuzza, Inc.,	)	
a California corporation,	)	
	)	
Opposer,	)	
v.	)	Opposition No. 91181543
	)	
Danico Enterprises, Inc.,	)	
a California corporation,	)	
	)	
Applicant.	)	
_____	)	

**STIPULATED MOTION TO AMEND APPLICATION PURSUANT TO 37 C.F.R. § 2.133**

The Applicant hereby moves the Trademark Trial and Appeal Board pursuant to 37 C.F.R. §2.133 to amend its application limiting the identification of goods. The Opposer has consented to the present motion and joins the Applicant in seeking favorable consideration of this motion. Applicant believes it is entitled to registration of the mark as amended.

37 C.F.R. §2.133 applies to and permits amendments pertaining to the identification of goods and services in the application during an inter partes proceeding. Applicant hereby requests the following amendment be entered in its application:

**Class 007**

**From:**

Electric juice extractors, electric meat grinders, electric pasta makers for domestic use, and power-operated meat grinders. FIRST USE: 19920401. FIRST USE IN COMMERCE: 19920401

**To:**

Electric juice extractors, electric meat grinders, and power-operated meat grinders.  
FIRST USE: 19920401. FIRST USE IN COMMERCE: 19920401

**Class 011**

**From:**

Chafing dishes; electric candelabras; electric casseroles; electric cookware, namely broilers and roasters; electric deep fryers; electric dehydrators; electric kettles; electric pressure cookers; electric rice cookers; electric rice steamer; and electric slow cookers.  
FIRST USE: 19920401. FIRST USE IN COMMERCE: 19920401

**To:**

Chafing dishes; electric pressure cookers; electric rice cookers; electric rice steamer; electric slow cookers and electric kettles for domestic use. FIRST USE: 19920401.  
FIRST USE IN COMMERCE: 19920401

**Class 021**

**From:**

Bake ware, excluding plastic microwave cookware; baking dishes; beverage glassware; beverage ware; beverage stirrers; bread boxes; butter dishes; cake servers; cake stands; casserole dishes; ceramic figurines; champagne buckets; coffee services not of precious metal; colanders for household use; containers for foods; cookie molds; cookie jars; cooking pots; cooking skewers; cookware; decorative plates; dinnerware; dish covers; dishes; dispensers for paper towels; china, crystal, earthenware, glass, porcelain and terra cotta figures; frying pans; glass bowls; glass mugs; glass pans; glass storage jars; strainers; skimmer; metal pans; napkin holders; non-electric griddles; non-electric pressure cookers; opal glass; plates; pots; pressed glass; salad bowls; salt and pepper shakers; saucepan scourers; saucepans; saucers; souvenir plates; spice racks; stained glass; stands for dishes; tea kettles; tea sets; tea strainers; vases; wastepaper baskets; wine buckets; and non-electric woks. FIRST USE: 19920401. FIRST USE IN COMMERCE: 19920401

**To:**

Bake ware, excluding plastic microwave cookware; baking dishes; beverage glassware; beverage ware; beverage stirrers; bread boxes; butter dishes; cake servers; cake stands; casserole dishes; ceramic figurines; champagne buckets; coffee services not of precious metal; colanders for household use; containers for foods; cookie molds; cookie jars; cooking pots; cooking skewers; cookware; decorative plates; dinnerware; dish covers; dishes; dispensers for paper towels; china, crystal, earthenware, glass, porcelain and terra cotta figures; frying pans; glass bowls; glass mugs; glass pans; glass storage jars; strainers; skimmer; metal pans; napkin holders; non-electric pressure cookers; opal glass; plates; pots; pressed glass; salad bowls; salt and pepper shakers; saucepan scourers;

saucepans; saucers; souvenir plates; spice racks; stained glass; stands for dishes; tea kettles; tea sets; tea strainers; vases; wastepaper baskets; wine buckets; and non-electric woks. FIRST USE: 19920401. FIRST USE IN COMMERCE: 19920401

The Applicants' proposed amendments to the application to limit the identification of goods is proper according to 37 C.F.R. §2.71(a) whereby the applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services. Herein, Applicant is limiting its identification of goods, as described above. No addition to or broadening of the identification of goods is achieved by this amendment. In view of the foregoing, approval of the amendment by the Trademark Trial and Appeal Board pursuant to 37 C.F.R. §2.133 is believed appropriate.

Applicant and Opposer have entered into a settlement agreement whereby settlement of the matter is contingent upon the amendment of Applicant's application as set forth above. Thereby, this motion is potentially dispositive of this proceeding.

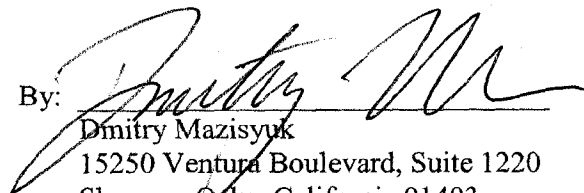
Applicant and Opposer respectfully requests that this motion be granted, the description of goods amended and the Opposition be dismissed with prejudice.

Dated: March 31, 2008

Respectfully submitted,

LAW OFFICES OF DMITRY MAZISYUK

By:



Dmitry Mazisyuk  
15250 Ventura Boulevard, Suite 1220  
Sherman Oaks, California 91403  
Telephone: (818) 501-3334  
Facsimile: (818) 501-3335

Attorney for Applicant  
Danico Enterprises, Inc.

Dated: April 1, 2008

LATHAM & WATKINS LLP

By: Deborah A. Gubernick  
Deborah A. Gubernick  
650 Town Center Drive, Suite 2000  
Costa Mesa, California 92626  
Telephone: (714) 540-1235  
Facsimile: (714) 755-8290

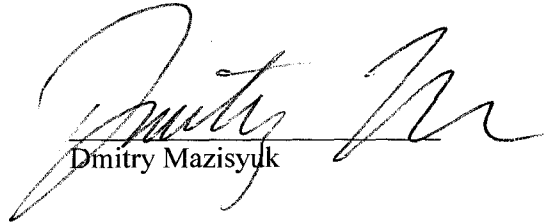
Attorney for Opposer  
Spenuzza, Inc.

**CERTIFICATE OF SERVICE**

I, Dmitry Mazisyuk, hereby certify that a true and complete copy of the foregoing **STIPULATED MOTION TO AMEND APPLICATION PURSUANT TO 37 C.F.R. § 2.133** has been served upon the following counsel for Opposer via first class mail, postage prepaid to:

Deborah A. Gubernick, Esq.  
Latham & Watkins, LLP  
650 Town Center Drive, Suite 2000  
Costa Mesa, California 92626

On April 2, 2008

  
Dmitry Mazisyuk