

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

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Mailed: November 6, 2008

Opposition No. 91184752

Fruit Shippers Limited,

v.

TECH INNOVATIONS, INC.

Frances S. Wolfson, Interlocutory Attorney:

On October 22, 2008, applicant filed a proposed amendment to its application Serial No. 78898849, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of goods in Class 29 **from** "Meat; bean dip; candied fruit; chicken; chile con queso; chile relleños; chorizo; crystallized fruit; dried beans; fruit-based food beverage; guacamole; processed beans; processed peppers; refried beans; processed meat" **to** "Meat; bean dip; chicken; chile con queso; chile relleños; chorizo; dried beans; guacamole; processed beans; processed peppers; refried beans; processed meat."

The amendment to the Class 29 goods is approved and entered. The amendment it is clearly limiting in nature as required by Trademark Rule 2.71(a) and opposer consents thereto. See Trademark Rule 2.133(a).

Applicant also indicates in its motion that it proposes to change the identification of goods in Classes 30 and 31. However, applicant's proposal did not make any changes to the identifications in these classes. Moreover, applicant makes no mention of Class 32, so it is unclear whether applicant intends to delete the goods in Class 32.

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135. See TBMP § 602.01 (2d ed. rev. 2004).

Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against applicant.

In view thereof, applicant is allowed until TWENTY DAYS from the mailing date of this order to provide opposer's written consent to the abandonment of applicant's Class 32 goods, or advise the Board that applicant does not intend to amend Class 32.

Proceedings herein 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 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 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>