

ESTTA Tracking number: **ESTTA297878**

Filing date: **07/29/2009**

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

Proceeding	91188227
Party	Defendant CoffeCo Ltda CI
Correspondence Address	COFFECO LTDA CI; COFFECO LTDA CI CALLE 94 NO. 58 - 40 BOGOTA, 00001 COLOMBIA cdaza@spiamericas.com.co
Submission	Motion for Default Judgment
Filer's Name	ANA MARIA GALLO
Filer's e-mail	amgallo@coffeco.com
Signature	/ANA MARIA GALLO/
Date	07/29/2009
Attachments	LITTLE DELIGHTS 91188227 29-07-09.pdf (7 pages)(1882841 bytes)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Federacion Nacional de Cafeteros de Colombia a/k/a National Federation of Coffee Growers of Colombia acting as administrator of the National Coffee Fund ("FNC"), a corporation organized and existing under the laws of the Republic of Colombia, having its principal place of business located at Calle 73 No. 8-13, Bogota, Colombia and CoffeeCo. Ltda. CI (hereinafter "CoffeeCo."), a corporation organized and existing under the laws of the Republic of Colombia, having its principal place of business at Calle 94 No. 58-40, Bogota, Colombia.

WHEREAS, the Republic of Colombia is the owner of U.S. Registration No. 1,160,492, which was issued by the United States Patent and Trademark Office on July 7, 1981, for the certification mark COLOMBIAN for coffee in Class A. The COLOMBIAN certification mark has been used on and in connection with coffee in interstate commerce in and throughout the United States continuously and extensively for more than 80 years. FNC is the agent for the Republic of Colombia, and is authorized to enforce and protect the COLOMBIAN certification mark;

WHEREAS, CoffeeCo. has filed with the U.S. Patent and Trademark Office on February 7, 2008 an application to register the mark LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE CUBE and Design, Serial No. 77/391,668, for "Coffee-based beverages; Instant coffee; Prepared coffee and coffee-based beverages; Artificial coffee; Artificial coffee and tea; Beverages made of coffee; Caffeine-free coffee; Coffee; Coffee; Coffee and artificial coffee; Coffee and coffee substitutes; Coffee and tea; Coffee based beverages; Coffee beans; Coffee beverages with milk; Coffee essences; Coffee extracts; Coffee pods; Coffee

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substitutes; Coffee-based beverage containing milk; Ground coffee beans; Mixtures of coffee and chicory; Roasted coffee beans; Sugar-coated coffee beans" (the "Application");

WHEREAS, FNC filed an opposition with the Trademark Trial and Appeal Board ("TTAB"), Opposition No. 91188227, against the application for the LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE CUBE and Design mark (the "Opposition"); and

WHEREAS, FNC and CoffeeCo. desire to amicably resolve their differences without further need to pursue the Opposition.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and understandings hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Within fifteen (15) days of the full execution of this Agreement by the parties, CoffeeCo. agrees to file an amendment to the Application with the U.S. Patent and Trademark Office deleting the word "Colombian" from the mark and deleting the disclaimer relating to the word "Colombian". The amended mark shall be LITTLE DELIGHTS THE ORIGINAL COFFEE CUBE and Design and shall only be used in this form.

2. CoffeeCo. agrees not to seek to register any trademark incorporating the mark COLOMBIAN, for any goods or services anywhere in the world. CoffeeCo. also agrees not to use the mark COLOMBIAN on or in connection with coffee or coffee products unless they contain 100% Colombian coffee which meets the export standards. FNC reserves its right to take legal action with respect to any other use or registration involving the mark COLOMBIAN, and as further authorized in this Agreement.

3. FNC agrees not to object or oppose the use or registration of the mark LITTLE DELIGHTS THE ORIGINAL COFFEE CUBE and Design.

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4. The parties agree to bear their own costs and attorneys fees, including, without limitation, all respective costs and other related expenses for amending the Application.

5. Within fifteen (15) days of the amendment to the Application set forth in paragraph 1 being accepted by the U.S. Patent and Trademark Office, FNC will withdraw the Opposition with the consent of CoffeeCo.

6. The parties agree that this Agreement represents a compromise settlement of disputed claims and that nothing in this Agreement is intended to be, nor will it be construed as, an admission of wrongdoing by either party.

7. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective present and future predecessors, successors, assigns, parents, affiliates, subsidiaries, licensees, franchisees, directors, officers, agents, servants, employees, representatives, principals, partners, attorneys, insurers and heirs and all those acting in concert or participation with them or under their direction or control. It shall be the duty of each party to inform said entities and individuals of this Agreement, and to take all reasonable steps to ensure their compliance with the terms of this Agreement.

8. Although this Agreement resolves the Opposition in the United States, the application and scope of this Agreement is worldwide.

9. If any provision of this Agreement is held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision will be of no force and effect, and the illegality or unenforceability of such provision will not have an effect upon and will not impact the enforceability of any other provision of this Agreement.

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10. This Agreement constitutes the entire undertaking and complete agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements of the parties whether written or oral.

11. This Agreement may be executed by any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the last date written below.

FEDERACION NACIONAL
DE CAFETEROS DE COLOMBIA,
a/k/a NATIONAL FEDERATION
OF COFFEE GROWERS
OF COLOMBIA, INC.

COFFEECO. LTDA. CI

By: _____

Name: LUIS GENARO MUÑOZ O.

Title: ADMINISTRATIVE MANAGER

Date: JUNE 3, 2009

By: _____

Name: ANAMARÍA GALLO

Title: General Manager.

Date: Mayo 5 / 2009.

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REPUBLICA DE COLOMBIA
MINISTERIO DE RELACIONES EXTERIORES
APOSTILLE

(Convention de La Haye du 5 Octobre 1961)

Pais: REPUBLICA DE COLOMBIA

(Country: - Pays:)

El presente documento público
(This public document - Le présent acte public)

Ha sido firmado por:

(Has been signed by: - A été signé par:)

ORTEGA PEDROZA TERESA DE JESUS

Actuando en calidad de:

(Acting in the capacity of: - Agissant en qualité de:)

DIRECTOR DE GESTION NOTARIAL

Lleva el sello/estampilla de:

(Bears the seal/stamp of: - Est revêtu du sceau de / timbre de:)

SUPERINTENDENCIA DE NOTARIADO Y REGISTRO

Certificado

(Certified - Attesté)

En:

(At: - A:)

BOGOTA D.C.

El:

(On: - Le:)

5/6/2009

Por:

(By: - Par:)

APOSTILLA Y LEGALIZACIONES

The Ministry of Foreign Affairs of Colombia

- Par: Ministère des Affaires Étrangères de la Colombie

No:

(Under Number: - Sous le numéro:)

AJFG11334433

Digitally Signed by:

Ministerio de Relaciones Exteriores de Colombia

NELSY RAQUEL MUNAR JARAMILLO

Reason: DOCUMENT AUTHENTICITY

Location: Bogotá - Colombia

Firma: (Signature:)

Nombre del Titular: ANA MARIA GALLO RUIZ

(Name of the holder of document: - Nom du titulaire:)

Tipo de documento: RECONOCIMIENTO DE FIRMA

(Type of document: - Type du document:)

Número de hojas apostilladas: 4

(Number of pages: - Nombre de pages:)

9561117167306212

La autenticidad de esta apostilla puede ser verificada en el Registro Electrónico que se encuentra en la siguiente página web:

The authenticity of this Apostille may be verified by accessing the e-Register on the following web site:

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www.cancilleria.gov.co/apostilla

Bogotá D.C.

Messrs

Trademark Trial & Appeal Board

U. S. A.

SUBJECT: Trademark Serial No. 77391668

TRADEMARK: LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE
CUBE


Dear Sirs,

Please be advised that we have reached a settlement with the National Federation of Coffee Growers of Colombia in regard to the application for registration of the trademark LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE CUBE in our name, and the opposition filed against such registration by the mentioned company.

Unfortunately, at the time we intended to inform you of the above detailed settlement, by filing an amendment to the trademark application, (in the sense of deleting the word "Colombian"), we filed the amendment to the application with the U.S. Patent and Trademark Office and not the TTAB.

On behalf of the above we request you take into consideration the settlement the parties have reached, vacate the judgment and enter the amendment.

Yours Truly,


Ana Maria Gallo
General Manager
CoffeCo Ltda CI

We have received your Preliminary Amendment Form Filing form below.

To the Commissioner for Trademarks:

Application serial no. **77391668** (Stylized and/or with Design, LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE CUBE) has been amended as follows:

MARK

Applicant proposes to amend the mark as follows:

Current: LITTLE DELIGHTS THE ORIGINAL COLOMBIAN COFFEE CUBE (Stylized and/or with Design)

Color is not claimed as a feature of the mark.

The mark consists of the wording "LITTLE DELIGHTS" with a design element below and the wording "THE ORIGINAL COLOMBIA COFFEE CUBE" below the design.

Proposed: LITTLE DELIGHTS THE ORIGINAL COFFEE CUBE (Stylized and/or with Design, 19024254232-091049148Logo_Little_Delights2.JPG)

The color(s) BLACK AND CREAM is/are claimed as a feature of the mark. The mark consists of LITTLE DELIGHTS THE ORIGINAL COFFEE CUBE IN BLACK LETTERS WITH PRECOLOMBIAN ARABESQUE DRAW AND CREAM BACKGROUND.

Preliminary Amendment Signature

Signature: /ANA MARIA GALLO/ Date: 06/17/2009

Signatory's Name: ANA MARIA GALLO

Signatory's Position: GENERAL MANAGER

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Thank you,

The TEAS support team

Wed Jun 17 09:34:04 EDT 2009

STAMP: USPTO/PRA-190.24.254.232-20090617093404568926-77391668-4302c474abecaf849ade122667ffc66fa43-N/A-N/A-20090617091049148283