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Filing date: **12/19/2012**

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

Proceeding	91208055
Party	Plaintiff Kellogg North America Company
Correspondence Address	DAVID A HERDMAN KELLOGG NORTH AMERICA COMPANY ONE KELLOGG SQUARE, PO BOX 3599 BATTLE CREEK, MI 49016-3599 UNITED STATES trademarks@kellogg.com
Submission	Other Motions/Papers
Filer's Name	DAVID A HERDMAN
Filer's e-mail	trademarks@kellogg.com
Signature	/DAVID A HERDMAN/
Date	12/19/2012
Attachments	Consent Amendment & Withdrawal Motion.pdf ( 5 pages )(153352 bytes )

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

<b>KELLOGG NORTH AMERICA COMPANY</b>	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	Opposition No. 91208055
	)	Serial No. 85/528,263
<b>BARILLA G.E.R. FRATELLI SPA</b>	)	Mark: NUTRIPLUS
	)	Filing Date: January 30, 2012
Applicant.	)	Publication Date: May 22, 2012
	)	

**STIPULATION OF THE PARTIES**


Opposer, KELLOGG NORTH AMERICA COMPANY, and Applicant, BARILLA G.E.R. FRATELLI SPA, hereby stipulate that the Amendment of Trademark Application with Consent, as attached to this Motion as Exhibit A, is an amendment agreed upon by the parties to settle the dispute between the parties. If the Amendment of Trademark Application is allowed and ordered by the Trademark Trial and Appeal Board, then the parties agree to a termination of the captioned opposition on the basis below.

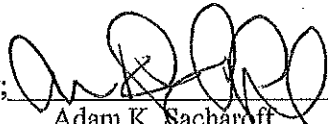
**STIPULATED WITHDRAWAL OF OPPOSITION WITHOUT PREJUDICE**

Opposer, KELLOGG NORTH AMERICA COMPANY, herein withdraws, *without prejudice* and with the consent of Applicant, BARILLA G.E.R. FRATELLI SPA, Opposition No. 91208055 Application Serial No. 85/528,263 for the mark NUTRIPLUS.

Respectfully submitted

KELLOGG NORTH AMERICA COMPANY · BARILLA G.E.R. FRATELLI SPA

By:   
David A. Herdman  
Assistant Secretary/Corporate Counsel  
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269-961-2170  
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By:   
Adam K. Sacharoff  
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Attorney for Applicant

Dated: 12-18, 2012

Dated: 12-18, 2012

Kellogg North America Company,	)	
	)	<b>Opposition No. 91208055</b>
<b>Opposer,</b>	)	
	)	<b>Serial No. 85/528,263</b>
<b>vs.</b>	)	
	)	<b>Trademark NUTRIPLUS</b>
<b>Barilla G.e.R. Fratelli SPA</b>	)	
	)	
<b>Applicant.</b>	)	
_____	)	

**AMENDMENT OF TRADEMARK APPLICATION WITH CONSENT**

Applicant, through its attorneys and pursuant to 37 C.F.R. 2.133(a), hereby requests an amendment to its recitation of goods. Class 029 remains as currently pending, and Class 030 is amended as shown below.

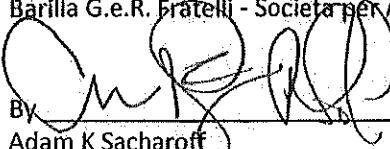
Class 029: Processed olives, olive oil, cheese, dips, snack dips, prepared and/or packaged foods, dishes, meals, meal kits, and microwaveable foods consisting primarily of meats, poultry, vegetables and/or fruits;

Class 030: Sauce, salad dressings, food seasonings, seasoning mixes, seasonings, prepared and/or packaged foods, dishes, meals, meal kits, and microwaveable foods consisting primarily of rice, bread, cereals, noodles excluding cereal bars and waffles, ready-made sauces and/or pastries; snacks made from cereals excluding cereal bars and waffles, biscuits, crackers, rusks, breadsticks, dry breads; pizza; calzones; panini sandwiches; stromboli; ravioli; tortellini; manicotti; pasta shells; lasagna

This amendment is filed with the written consent of the opposing party as evidenced by the attached signatures. A copy is being filed with the Trademark Examining Operation.

Dated: 12.7.2012

Barilla G.e.R. Fratelli - Società per Azioni

By   
 Adam K Sacharoff  
 Attorney for Applicant  
 Much Shelist, PC  
 191 N Wacker Drive, Suite 1800  
 Chicago, IL 60606

Opposer, Kellogg North America Company, consents to Applicant's amendment of the trademark NUTRIPLUS, Serial No.: 85/528,263 without prejudice.

**Kellogg North America Company**

Date 12-18-12

BY 

David A. Herdman  
Assistant Secretary / Corporate Counsel  
Kellogg North America Company  
One Kellogg Square  
PO Box 3599  
Battle Creek, MI 49016

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

<b>KELLOGG NORTH AMERICA COMPANY</b>	)	
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	)	Opposition No. 91208055
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	)	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 19, 2012, a true copy of the foregoing STIPULATION OF PARTIES has been served on the following Attorney of Record and Correspondent listed on the website of the United States Patent and Trademark Office by emailing said copy on December 19, 2012 (previous consent for email delivery having been granted) to:

Adam Sacharoff  
 Much Shelist  
 191 North Wacker Drive, Suite 1800  
 Chicago, IL 60606-16311  
 asacharoff@muchshelist.com

Signed: *Patricia A. Connor*

Name: Patricia A. Connor