

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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Mt/DUNN

Mailed: February 26, 2018

Opposition No. 91221756 (parent)
Opposition No. 91221759
Opposition No. 91221762
Opposition No. 91221767

Hershey Canada Inc.

v.

Brookshire Grocery Company

By the Trademark Trial and Appeal Board:

On February 2, 2018, the parties filed a stipulated proposed amendment to the opposed applications in this consolidated proceeding, with the consent of both Opposers¹, and the withdrawal of this consolidated opposition, contingent upon entry of the amendment.²

By the proposed amendment, Applicant seeks to amend the identification of goods to delete goods as indicated (deletions are ~~stricken~~).

Application Serial Numbers 86199661 (Opp. 91221762) and 86199662 (Opp.

¹ As set forth in the last order, each application has been opposed by both Hershey Canada Inc. and Brookshire Brothers, Inc. This consolidated proceedings involves the oppositions brought by Hershey Canada Inc.

² The Board notes that each opposed application includes multiple classes, but only some of the classes were opposed, and only some of the goods listed in the opposed classes were opposed. This order discusses only the changes to opposed goods. Accordingly, there is no change to other goods in the opposed classes, or to other classes listed in the opposed applications.

91221767)

Yogurt; vegetable oil; potato chips or crisps; potato flakes; oil-based cooking sprays; vegetable based cooking sprays; broths; pre-packaged frozen dinners consisting of meat, seafood, poultry and/or vegetables; dry soup mixes; soups; dried beans; ~~fruit based snacks; candied fruit snacks~~; baked beans, in International Class 029.

Tortillas; stuffing mixes containing bread; macaroni and cheese; ~~candy~~; frozen bread; rice; biscuits; cheesecake; salad dressings; salad dressing mixes; coffee pods, in International Class 030.

Application Serial Numbers 86199664 (Opp. 91221756) and 86199666 (Opp. 91221759)

Butter; fresh meats; frozen meats; coffee creamer; cottage cheese; cream cheese; bean dips; cheese dips; cheese; deli meats; prepared salads, except macaroni, rice, and pasta salad; eggs; whipped topping; canned fruits; frozen vegetables; canned vegetables; canned beans; milk; ~~nut based snack bars~~; sour cream; olive oil; snack mixes consisting primarily of processed nuts; ~~snack mix consisting primarily of processed fruits, processed nuts, dried fruits, and chocolate~~; snack mix consisting primarily of seeds; ~~snack mix consisting primarily of processed fruits, processed nuts, dried fruits, chocolate, and peanut butter confectionery chips~~; clam juice; pickle juice, in International Class 029.

Bread; coffee; ready to eat cereals; processed cereals; cookies; crackers; salsa; dough; frozen waffles; frozen pancakes; frozen French toast; frozen desserts consisting of fruit or cream or cream substitutes; frozen desserts, namely, freezer pops, banana pops, push pops, fudge bars, fruit bars, ice cream bars, ice cream sandwiches, ice cream cups, ice cream, sundae ice cream cones, puddings and soufflés; prepared macaroni salad; prepared rice salad; prepared pasta salad; frozen pizza; frozen pies; ice; tortilla shells; tortilla chips; mustard; ketchup; popcorn; snack mixes consisting primarily of crackers, pretzels and/or popped corn, ~~granola snack bars~~; pasta noodles; tomato sauce; frozen pastries, in International Class 030.

The amendment is limiting in nature, as required by Trademark Rule 2.71(a). Because both Opposers consent thereto, the amendment is approved and entered. *See* Trademark Rule 2.133(a).

Opposition Nos. 91221756, 91221759, 91221762, and 91221767

The contingency in Opposer's withdrawal having now been met, the consolidated opposition is dismissed with prejudice in accordance with the agreement between the parties.

Application Serial Nos. 86199661, 86199662, 86199664 and 86199666 remain subject to the oppositions filed by Brookshire Brothers, Inc. and remain in pending status.