

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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RK/kk

June 11, 2020

Opposition No. **91238728**

Birds Eye Foods LLC

v.

Paris Croissant Co., Ltd.

By the Trademark Trial and Appeal Board:

On June 5, 2020, Applicant filed new amendments to **Application Serial Nos. 87168679 and 87168692** and Opposer's withdrawal of the opposition with prejudice, contingent upon entry of the amendments. The written consent of each party is noted.

By the proposed amendments, Applicant seeks to amend the identification of goods in each of the involved applications as follows (deletions underlined and additions bolded):

Application Serial No. 87168679:

From: Tapioca; cereal-based snack foods; sandwiches; confectioneries, namely, pastilles, fondants, yogurt-covered pretzels, crystal sugar pieces, gum paste, yogurt-covered fruit, yogurt-covered nuts and confectionery chips for baking; bread; chocolate confections; cake; ice cream; sugar; rice cakes; sauces; coffee flavourings, other than essential oils, for food or beverages; tea; prepared coffee and coffee-based beverages; caffeine-free coffee; roasted coffee beans; tea-based beverages; iced coffee; chocolate products, namely, chocolate candies, chocolate based ready to eat

snacks, chocolate bars, chocolate truffles and chocolate chips; cocoa-based beverages; in International Class 30.

To: Coffee flavourings, other than essential oils, for food or beverages; tea; prepared coffee and coffee-based beverages; caffeine-free coffee; roasted coffee beans; tea-based beverages; iced coffee; cocoa-based beverages; **none of the foregoing being frozen;** in International Class 30.

Application Serial No. 87168692:

From: Fruit juice; fruit-based beverages; aerated fruit juices; fermented beverage, namely, beer and ale; soda drinks, namely, soft drinks, soda water, ice cream soda; smoothies; non-alcoholic rice-based beverages not being milk substitutes; almond juice beverages in the nature of milk of almonds for beverage; ginger ale; soft drinks; aerated water; fruit juice concentrates; fruit syrup, namely, syrups for making fruit-flavored drinks; mineral water; water beverages; flavor enhanced water; beer; alcohol-free beers; non-alcoholic cocktail; in International Class 32.

To: Fruit juice; fruit-based beverages; fermented beverage, namely, beer and ale; soda drinks, namely, soft drinks, soda water, ice cream soda; smoothies; non-alcoholic rice-based beverages not being milk substitutes; almond juice beverages in the nature of milk of almonds for beverage; ginger ale; soft drinks; aerated water; mineral water; water beverages; flavor enhanced water; beer; alcohol-free beers; non-alcoholic cocktail; **none of the foregoing being frozen, with the exception of ice cream soda and smoothies, and all of the foregoing being sold only from retail cafes and not sold in grocery stores or supermarkets;** in International Class 32.

Inasmuch as the amendments are clearly limiting in nature as required by Trademark Rule 2.71(a), and because Opposer consents thereto, the amendments are **APPROVED** and entered. *See* Trademark Rule 2.133(a).

The contingency in Opposer's withdrawal having now been met, the opposition is **DISMISSED with prejudice.**

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