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Filing date: **12/10/2019**

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

Proceeding	91248292
Party	Defendant 1412 Broadway Rooftop LLC
Correspondence Address	CHARLES AINI 1178 BROADWAY, 5TH FLOOR NEW YORK, NY 10001 UNITED STATES charles.aini@gmail.com, charlyo23@aol.com no phone number provided
Submission	Motion to Amend Application
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Date	12/10/2019
Attachments	ELSIE MOTION TO AMEND.pdf(119823 bytes)

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

Comercializadora de Lácteos y Derivados, S.A.)	
de C.V. and Borden Dairy Company,)	
)	Opposition No.: 91248292
)	Serial No.: 88022622
Opposer,)	Mark: ELSIE
)	
v.)	
)	
1412 Broadway Rooftop LLC,)	
)	
)	
Applicant.)	
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**MOTION ON CONSENT TO AMEND APPLICATION, SUSPEND OPPOSITION,
AND CONDITIONAL DISMISSAL OF OPPOSITION WITHOUT PREJUDICE**

Applicant, 1412 Broadway Rooftop LLC (“Applicant”) hereby moves, with the consent of Opposer, Comercializadora de Lácteos y Derivados, S.A. de C.V. and Borden Dairy Company (collectively “Opposer”), to amend the application that is the subject of this opposition proceeding and to dismiss the opposition without prejudice conditioned upon the Board’s acceptance of the amendment.

Applicant requests that the services identification in International Class 43 be amended as follows:

From:

Bar and restaurant services

To:

Bar services featuring alcoholic beverages and upscale restaurant services provided exclusively in connection therewith; the foregoing services excluding the sale or offering of foods or beverages consisting primarily of dairy or dairy-based foods or beverages

For the sake of clarity, a redlined identification is shown as follows:

Bar **services featuring alcoholic beverages** and **upscale** restaurant services **provided exclusively in connection therewith; the foregoing services excluding the sale or offering of foods or beverages consisting primarily of dairy or dairy-based foods or beverages**

Applicant respectfully submits the amendment is narrowing in nature and no republication is required. Opposer consents to the proposed amendment. Applicant further requests, with Opposer's consent, suspension pending the Board's review of the foregoing amendment, and upon the approval and entry of the proposed amendment, this opposition proceeding be dismissed without prejudice, and with Opposer's written consent.

**VORYS SATER SEYMOUR AND PEASE
LLP**

CHARLES AINI, ESQ.

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Comercializadora de Lácteos y
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Dairy Company

Attorney for Applicant,
1412 Broadway Rooftop LLC

Dated: December 10, 2019

Dated: December 10, 2019

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **MOTION ON CONSENT TO AMEND APPLICATION, SUSPEND OPPOSITION, AND CONDITIONAL DISMISSAL OF OPPOSITION WITHOUT PREJUDICE** has been served on Vincent C. Lombardozi, counsel for Opposer, on December 10, 2019, via email to:

iplaw@vorys.com, ltgeyer@vorys.com, vclombardozz@vorys.com

By: /Charles Aini/
Charles Aini