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

Proceeding	91269478
Party	Plaintiff Tootsie Roll Industries, LLC
Correspondence Address	JOHN L WELCH WOLF GREENFIELD & SACKS PC 600 ATLANTIC AVENUE BOSTON, MA 02210 UNITED STATES Primary Email: jlwtrademarks@wolfgreenfield.com Secondary Email(s): drwtrademarks@wolfgreenfield.com 617-646-8000
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Date	07/14/2021
Attachments	91269478 Response to Applicants Motion to Amend.pdf(69784 bytes)

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_____)	
TOOTSIE ROLL INDUSTRIES LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	91269478
)	
HOME BREW MART, INC.,)	Application S. N.
)	90/294,127
Applicant.)	
_____)	

OPPOSER’S RESPONSE TO APPLICANT’S MOTION TO AMEND AND SUSPEND

Opposer TOOTSIE ROLL INDUSTRIES LLC (Opposer), by its counsel, hereby responds to APPLICANT’S MOTION TO AMEND APPLICATION AND SUSPEND PROCEEDINGS (5 TTABVUE).

Applicant seeks to delete from the opposed application the following goods: Fruit drinks and fruit juices; Mineral and aerated waters (“the Proposed Excluded Goods.”). At page 3 of its motion, Applicant states that it “consents to the entry of judgment on the grounds for opposition with respect to the Proposed Excluded Goods.”

Opposer does not oppose the entry of partial judgment against Applicant as to the Proposed Excluded Goods, with the understanding that this partial judgment will have res judicata effect.¹ Opposer notes that in the *Wisconsin Cheese* case cited by Applicant, the Board granted a motion to delete certain goods from the applicant’s

¹ Opposer suggests that Applicant’s goal could have been readily accomplished by simply filing a voluntary abandonment of the application with prejudice as to the Proposed Excluded Goods, resulting in the entry of partial judgment against applicant.

identification of goods and entered judgment against the applicant as to the deleted goods.

To the extent that Applicant may be arguing that the deletion of the Proposed Excluded Goods “will avoid a likelihood of confusion” with the “Proposed Amended Goods” (Applicant’s footnote 3), Opposer disagrees and will continue with its opposition to registration of the opposed mark for said Proposed Amended Goods.

As to Applicant’s request for suspension, Opposer sees no need for a suspension of this proceeding and therefore opposes the request.

TOOTSIE ROLL INDUSTRIES LLC



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon Applicant this 14th day of July, 2021, by emailing a copy thereof to its counsel (whose address is set forth below) at jhbrown@michaelbest.com, lwdemarte@michaelbest.com, sjhorace@michaelbest.com, taagnello@michaelbest.com, chiipdocket@michaelbest.com.

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