

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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General Email: TTABInfo@uspto.gov

WF/Bukrinsky/dmd

February 24, 2020

Cancellation No. 92071702

Milly Organic Spirits, LLC

v.

Goh Joo Hin Pte Ltd

Winston Folmar, Interlocutory Attorney:

On February 16, 2020, Respondent filed a proposed amendment to its Registration No. 4562678, with Petitioner's consent, and Petitioner's withdrawal of the petition to cancel without prejudice, contingent upon entry of the amendment. 16 TTABVUE.

By the proposed amendment, Respondent seeks to amend the existing identification of goods in International Class 32 from (~~striketrough~~ text removed, **bold** text added):

From:

Non-alcoholic cocktails, fruit juices, lemonades, mineral water, non-alcoholic beverages, namely, mineral water; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic fruit juice beverages; fruit powders and isotonic powders for use in the preparation of effervescing beverages in the nature of isotonic sports drinks, fruit-based beverages, and vegetable-based beverages, namely, vegetable drinks; tomato juice and drinking waters; vegetable juice, fruit juice, and non-alcoholic malt beverages all containing edible bird's nest; non-alcoholic drinks, namely, tonic water and non-medicated beverage in the nature of drinking water; aerated water; drinking water, mineral water, distilled

drinking water containing bird's nest made with rock sugar; syrups for making beverages containing bird's nest with rock sugar; essences for making non-alcoholic beverages in the nature of essences of chicken; ~~beer, ale and porter~~; aerated waters, lemonades; tomato juice; vegetable juices; isotonic beverages; **all of the foregoing excluding alcoholic beverages**

To:

Non-alcoholic cocktails, fruit juices, lemonades, mineral water, non-alcoholic beverages, namely, mineral water; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic fruit juice beverages; fruit powders and isotonic powders for use in the preparation of effervescing beverages in the nature of isotonic sports drinks, fruit-based beverages, and vegetable-based beverages, namely, vegetable drinks; tomato juice and drinking waters; vegetable juice, fruit juice, and non-alcoholic malt beverages all containing edible bird's nest; non-alcoholic drinks, namely, tonic water and non-medicated beverage in the nature of drinking water; aerated water; drinking water, mineral water, distilled drinking water containing bird's nest made with rock sugar; syrups for making beverages containing bird's nest with rock sugar; essences for making non-alcoholic beverages in the nature of essences of chicken; aerated waters, lemonades; tomato juice; vegetable juices; isotonic beverages; all of the foregoing excluding alcoholic beverages

Although the proposed amendment is otherwise acceptable and was consented to by Petitioner, it was (1) not accompanied by the proper fee under Trademark Rule 2.6, and (2) not verified or supported by a declaration under 37 C.F.R. § 2.20. *See* Trademark Rules 2.6(a)(11), 2.133(a) and 2.173(b); *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE ("TBMP") § 514.01 (2019). In view thereof, the amendment is **denied without prejudice**. The present identification of goods, that is, the identification prior to the filing of the motion to amend, remains operative for the purposes of any future amendment. *See* Trademark Rule 2.71(a); TRADEMARK MANUAL OF EXAMINING PROCEDURE § 1402.07(d) (Oct. 2018).

Inasmuch as the filing of the consented motion to amend indicates that the parties are making efforts to settle this matter, proceedings are **suspended**, and the parties are allowed **thirty days from the date of this order** to file a revised motion to amend, inclusive of the required fee and declaration in support of the amendment, failing which said amendment will be given no further consideration.¹

¹ Applicant may submit the required fee and declaration by utilizing the appropriate form available through ESTTA as follows:

1. Access ESTTA at www.estta.uspto.gov and choose Return to ESTTA home page.
2. At the bottom of the screen on the ESTTA home page, click on the link to access all available forms.
3. Under the File Documents in a Board Proceeding type of filing option menu, choose Opposition, Cancellation or Concurrent Use (general filing) and enter your proceeding number in the box provided. Click start.
4. On the next screen, click the button to identify the party filing the document and then click next.
5. On the next screen, identify the paper. Under Discovery/Trial Motions, select Motion to Amend Registration (Requires a Fee and a Declaration) and then click next.
6. On the next screen, click the button of the Registration Number(s) that applies and then click next.
7. On the next screen, confirm that the registration number you chose is correct and then click next.
8. On the next screen, choose the goods/services that you propose to amend and then click next.
9. On the next screen, change information as needed and click next.
10. Click on the browse button, upload your document, attach the file, and click next.
11. On the signature screen, you will note the declaration and the requirement for an authorized electronic signature. *See* TBMP § 106.02. Click next.
12. Review the information on the Validate and Submit screen. If the information is not correct, go back to make any changes. If the information is correct, go to the bottom of the screen and click “Go to Payment Screen” to submit the requisite fee for amending your registration. Note, the new declaration is on this screen and it will be available on the ESTTA coversheet of your filing in TTAVUE once the document has been uploaded.

If you have any question about using the ESTTA filing system, you may call the Trademark Trial and Appeal Board at 571-272-8500 Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m. (ET).