

87/932,076 for GRAPEFRUIT

Section 2(e)(1) Refusal

Applicant has deleted herein the portion of its description of goods that relates specifically to tasting cups, although notes that the remainder of the description of goods would nonetheless be sufficiently broad to encompass such goods. Specifically, Applicant modifies its description of goods to remove the language “Sets of tasting cups for experiencing different coffee flavor profiles; Tasting cups for experiencing specific coffee flavor profiles; Cups for detecting flavor notes in gourmet coffees; Cups for detecting flavor notes in specialty coffees; Cups for detecting flavor notes in coffees”. It is Applicant’s understanding that this amendment will successfully address the Section 2(e)(1) Refusal. Applicant therefore respectfully requests withdrawal of the Section 2(e)(1) Refusal.

Response to Request for Information

A physical specimen of a cup that Applicant intends to sell bearing the GRAPEFRUIT mark is not yet available. However, Applicant submits similar documentation for goods of the same type in the form of the attached professional photograph of a cup intended to be sold by Applicant bearing the mark COCOA on its bottom. Applicant expects that the cup it eventually sells bearing the GRAPEFRUIT mark will be depicted in essentially the same manner, as a word mark with some accompanying similar logos, and on the bottom of the cup. As with the example image, other than the writing on the bottom of the cup, the cup would not include other writing or ornamentation. The cup itself may have a different ornamental shape as compared to the depicted cup, but it is unknown whether any such change in shape would lead to a change in function. As to channels of trade, the cup is principally intended for sale in coffee shops and are directed to consumers that have a sophisticated knowledge of coffees and coffee related equipment.

Espro, Inc., the Applicant, plans to use the GRAPEFRUIT mark as a source indicator for a coffee cup similar to the illustrated coffee cup. GRAPEFRUIT is known as a flavor note of coffee. However, the actual cup sold by Applicant that is pictured, or any other cup that Applicant would plan to sell bearing the GRAPEFRUIT mark, to Applicant’s knowledge, would not physically function to enhance the GRAPEFRUIT flavor note of coffee.