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

Proceeding	86256664
Applicant	Lawrence Foods, Inc.
Applied for Mark	CHOCOLATE GLAÃ#AGE
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Submission	Appeal Brief
Attachments	Appeal Final Chocolate Glacage.pdf(1926663 bytes )
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Signature	/Alain Villeneuve/
Date	10/23/2015

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

In re Application of	)	
Lawrence Foods, Inc.	)	Trademark Examining Attorney:
	)	Ty Murray
Serial No.: 86/256,664	)	Law Office: 113
Filed: April 18, 2014	)	
Mark: CHOCOLATE GLAÇAGE	)	

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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

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Alexandria, VA 22313-1450

<u>/Alain Villeneuve/</u>	<u>October 23, 2015</u>
Alain Villeneuve	Date

**APPELLANT'S APPEAL BRIEF**

Appellant, Lawrence Foods, Inc. ("Lawrence Foods"), submits this Brief pursuant to a timely notice of appeal filed under 37 C.F.R. § 2.141 and § 2.142. Appellant disputes the Examining Attorney's assertions directed to the genericness / descriptiveness of the mark CHOCOLATE GLAÇAGE in relation to icing and glazes for cakes, pies, donuts, and bakery goods in International Class 030. While the Examiner has issued only a rejection on genericness grounds, the Board has also included a newly presented rejection on descriptiveness grounds. The above refusal on genericness is the only refusal outstanding in the pending application at the USPTO, a refusal on descriptiveness. All other matters having been resolved, Appellant requests that this Board reverse the refusal and pass this mark to publication.

From: Murray, Ty

Sent: 12/3/2015 7:02:53 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 86256664 - CHOCOLATE GLAÇAGE - 37414000086 -  
EXAMINER BRIEF

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Attachment Information:

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Files: 86256664.doc

ESTTA Tracking number: **ESTTA712920**

Filing date: **12/07/2015**

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

Proceeding	86256664
Applicant	Lawrence Foods, Inc.
Applied for Mark	CHOCOLATE GLAÃ#AGE
Correspondence Address	ALAIN VILLENEUVE VEDDER PRICE PC 222 N LASALLE ST STE 2600 CHICAGO, IL 60601 UNITED STATES avilleneuve@veddrprice.com, ipdocket@vedderprice.com, vhas-kett@vedderprice.com
Submission	Reply Brief
Attachments	Reply_Brief_Chocolate_Glacage.pdf(222922 bytes )
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Signature	/Alain Villeneuve/
Date	12/07/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Alexandria, VA 22313-1450

<u>/Alain Villeneuve/</u>	<u>December 7, 2015</u>
Alain Villeneuve	Date

**APPELLANT'S REPLY BRIEF**

As part of some preliminary matters, the Examiner writes: "[T]he examining attorney, based upon the entire prosecutorial history of this case, believes that should the TTAB find that the mark is merely descriptive, that an amendment to the Supplemental Registry would not place the application in condition for registration." Examiner's Brief, Page 4. Such a statement greatly saddens Appellant. The law provides:

“All marks capable of distinguishing applicant's goods or services and not registrable on the principal register provided in this chapter, except those declared to be unregistrable under subsections (a), (b), (c), (d), and (e)(3) of section 1052 of this title, which are in lawful use in commerce by the owner thereof, on or in connection with any goods or services may be registered on the supplemental register upon the payment of the prescribed fee and compliance with the provisions of subsections (a) and (e) of section 1051 of this title so far as they are applicable.” 15 U.S.C. §1091(a).

Said simple, all marks (including Appellant's) capable of distinguishing applicant's goods and not registrable on the principle under subsection (e)(1) of section 1052 are registrable with the exception of generic marks. Appellant does not understand this position aside from being disturbed by Appellant's courteous, respectful but zealous prosecution. Appellant has been blocked for two years now at the Office, forced into a long appeal to protect a mark it truly believes must be registered.

The Examiner then talks about Appellant's brief as "verbiage" a very pejorative term. Examiner's Brief, page 3. The Examiner scolds the Appellant for addressing the genericness issue stating that the Board asked the Parties to focus on Section 2(e)(1). TMEP § 1209.01 describes the 'distinctiveness/descriptiveness continuum' in rather clear terms. This section explains how generic marks can lack distinctiveness (e.g. lasagne cupcakes generic for hand-sized portions of lasagne), and also can be the end of the descriptiveness scale (e.g. blue chair for a seating equipment of the blue color). Making ridicule of the Appellant is not worthy of this Board and of the Office. Once again, this Appellant does not understand what it has done to deserve this tone from the Office as it simply tries to prosecute the mark to allowance.

### **The Doctrine of Foreign Equivalent**

The Examiner's Appeal Brief offers the following statement: "Based upon the fact that the mark is immediately recognized and understood by the general public as merely describing the applicant's goods of icing and glazes, the examining attorney agrees that the Doctrine is not applicable in this case." Examiner's Appeal Brief, page 9 (emphasis added). While the Examiner takes a very strongly worded stance against the Appellant in the Brief, these statements infuse in the brief. Either the mark is immediately recognized and understood by the general public and the doctrine is relevant and should be applied (e.g. translate CHOCOLATE GLACAGE read as CHOCOLATE ICING for the purpose of prosecution), or the doctrine does not apply and prosecution must assume the mark CHOCOLAGE GLACAGE is up for review and not CHOCOLAGE ICING.

Appellant assumes the use of the word "not" in the Examiner's statement is a mistake, otherwise the Office would admit the doctrine does not apply. If Appellant assumes the Examiner maintains the

Office's earlier position, the Appellant note to this Board that absolutely no evidence is offered by the Examiner to support the conclusion that the general public immediately understands and recognizes GLACAGE as ICING. "The examining attorney should also do any necessary research to determine the nature of the use of the designation in the marketplace." TMEP § 1209.02. Here no dictionary evidence, no website, no third party registration suggests the immediate translation in the mind of consumers. Therefore, the Board must conclude the doctrine does not apply and at best, the Examiner must prove that CHOCOLATE GLACAGE is in use in the United States, is not perceived as a word of foreign origin but instead is simply a synonym of CHOCOLATE ICING is common use in English.

### **The Descriptiveness Rejection of CHOCOLAGE GLACAGE**

The bulk of the Examiner's Appeal Brief focuses around the argument that CHOCOLATE GLAÇAGE is descriptive as it "immediately describes an ingredient, feature and characteristic of the goods." Yet, as part of this rejection, the Examiner argues that "[t]he term "GLACAGE" is a word of French origin that means "icing." Examiner's Appeal Brief, page 4. The Examiner appears to be confusing the doctrine of foreign equivalent which takes foreign words, recognized to be foreign, and require association/translation into English (here glacage = icing), with simple words of foreign origin. Some words of foreign origin have made their way into the English dictionary and have no requirement for translation. For example, this Board can take judicial notice that Japanese origin words have made their way into the English dictionary include karaoke, bonsai, koi, ramen, sake, sushi, tofu, and tsunami. There is no translation in the mind of a consumer of these words simply because the word is the primary significance (i.e. consumers do not translate bonsai into 'dwarf tree'). As argued by the Appellant, and confirmed by the Examiner, the word "glacage" is simply not present in the Webster dictionary. Examiner's Appeal Brief, page 7. Glacage is not English, and So the Examiner appears to be suggesting the word "glacage" is not of usage and should be translated.

Next the Examiner tries to make a prima facie case citing a handful of websites where the expression "chocolate glacage" is used. For this information to be relevant to a "characteristic" of the mark, the term must be understood as the goods at issue. As large part of evidence entered by the

Examiner relates to the use in English websites of the expression “Chocolate Glacage” and not “Chocolate Icing” its foreign equivalent. The Examiner tries to prove that “Chocolate Glacage” is descriptive of icing. Next, the Examiner tries to rebut the argument that foreign websites are not the best evidence to support a claim of descriptiveness in the USA. In the cited case, evidence was introduced of a large international flower provider as to how the world of flower delivery worked.

Here, since the Examiner was obviously unable to find any serious source using “chocolate glacage” in the United States, very secondary and often international uses are given. Compelling evidence to this Board would have been (a) dictionary definitions of icing showing the word glacage as a synonym of icing used in the USA, (b) pages from retail giants in the USA using the word glacage to sell icing, (c) website giants like Walmart or Amazon using the word glacage in association with icing, or even (d) culinary schools or students using this word instead of icing in a descriptive way.

The Examiner admits the listed pages were taken after indexing the internet using the Google.com tool. See Examiner’s Brief at page 8. While Appellant understands no new evidence can be introduced to support or rebut the case on Chocolate Glacage, Appellant’s counsel is a native French speaker and honestly tried (and failed) to find any obscure French word which would be entered into the Google.com search engine and returned less hits from around the world. To list a few:

CHOCOLATE GLACAGE (Chocolate icing) = 55,900 results  
CHOCOLATE FRAMBOISE (Chocolate raspberry) = 527,000 results  
CHOCOLATE IMPRIMANTE (Chocolate printer?) = 106,000 results  
CHOCOLATE VOITURE (Chocolate car?) = 460,000 results  
CHOCOLATE MAISON DE CAMPAGNE (Chocolate summer cottage?) = 526,000 results  
CHOCOLATE SOUS-VETEMENT (Chocolate underwear?) = 255,000 results  
CHOCOLATE BOULON (Chocolate bolt?) = 106,000 results

Without casting any shadow on the Examiner’s logic, the Appellant invites the Board members to launch the Google.com indexing tool, and place any French word next to “chocolate” and find less than the number of results for glacage. Appellant’s counsel was unable to do so even after selecting the strangest words. Using the Examiner’s logic, no French origin word, irrespective of how strange they are will be accepted as a mark in the United States. Clearly the methodology and the test suggested by the Examiner cannot be right.



## CONCLUSION

Ultimately, the Examiner argues the mark CHOCOLATE GLACAGE is simply unable to work as a brand and lacks any source identification capacity. Reproduced below is the specimen introduced by this Appellant. Obviously here the instore bakery would call Appellant, look at the empty white container on the shelf and simply ask “Get me two more containers of the ‘Chocolate Glacage’”.



Specimen CHOCOLATE GLAÇAGE™ ICING

Clearly this mark works. The burden is placed on the Office to reject this mark and prove by clear and convincing evidence why Appellant should not have protection. As shown in the Examiner’s brief, nothing suggests that customers in the United States will know what CHOCOLATE GLACAGE even means.

Respectfully submitted,

Dated: December 7, 2015

VEDDER PRICE P.C.

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/Alain Villeneuve/  
Alain Villeneuve

# UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**U.S. APPLICATION SERIAL NO.** 86256664

**MARK:** CHOCOLATE GLAÇAGE



**CORRESPONDENT ADDRESS:**

ALAIN VILLENEUVE

VEDDER PRICE PC

222 N LASALLE ST STE 2600

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**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

**TTAB INFORMATION:**

<http://www.uspto.gov/trademarks/process/appeal/index.jsp>

**APPLICANT:** Lawrence Foods, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

37414000086

**CORRESPONDENT E-MAIL ADDRESS:**

avilleneuve@vedderprice.com

## **EXAMINING ATTORNEY'S APPEAL BRIEF**

Applicant has appealed the trademark examining attorney's refusal to register the proposed mark CHOCOLATE GLAÇAGE, for the goods of "Icing and glazes for cakes, pies, donuts, and bakery goods" in International Class 30. The trademark examining attorney refused registration on the grounds that the

applied-for mark is merely descriptive of an ingredient, feature and characteristic of applicant's goods.  
Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

### **STATEMENT OF THE FACTS**

The applicant filed this application on April 18, 2014, applying to register the mark CHOCOLATE GLAÇAGE, for the goods of "Icing and glazes for cakes, pies, donuts, and bakery goods" on the Principal Register.

In the first Office Action, issued July 16, 2014, the trademark examining attorney refused registration under Section 2(e)(1) of the Trademark Act and also advised the applicant that the mark appeared to be generic in connection with the identified goods.

On August 15, 2014, the applicant filed an Amendment to Allege Use thereby converting the application to a Section 1(a) Use Basis. The submitted specimen was deemed to be acceptable to support a showing of use of the mark in commerce, and the Amendment to Allege Use was approved.

On August 27, 2014, the applicant submitted a response to the July 16, 2014 Office Action, whereby the applicant amended the application from the Principal Register to the Supplemental Register.

On September 16, 2014, the examining attorney refused registration on the Supplemental Register reasserting that the mark was generic.

On November 5, 2014, an Examiner's Amendment was issued for the purpose of disclaiming the generic wording "GLAÇAGE." The application was then approved for registration on the Supplemental Register.

Upon further consultation and consideration, the examining attorney withdrew the approval for registration of the application on the Supplemental Register, and on December 29, 2014 issued an Office Action maintaining and continuing the generic refusal under Sections 23(c).

On February 9, 2015, the applicant filed its notice of appeal under 37 C.F.R. Sections 2.141 and 2.142. Applicant's appeal brief was forwarded to the examining attorney on March 5, 2015.

However, it was overlooked that in the applicant's Response on October 9, 2014, the applicant amended its application back to the Principal Register. By so amending the application, the Section 23(c) refusal was no longer applicable. As such, on April 28, 2015, the examining attorney filed a Motion to Remand with the Trademark Trial and Appeal Board, for the purpose of issuing a statutorily correct Final Refusal under Section 2(e)(1).

On May 6, 2015, the TTAB granted remand to the examining attorney and on June 4, 2015, the Final Refusal under Section 2(e)(1) was issued.

On June 30, 2015, the applicant filed its Supplemental Brief in response to the Section 2(e)(1) Final Refusal which was forwarded to the Examining Attorney for a response brief in accordance with Trademark Rule 2.142(b).

On August 24, 2015, the Examining Attorney filed its response brief in reply to the applicant's Supplemental Brief of June 30, 2015.

On August 24, 2015, the applicant filed a reply brief requesting that the TTAB strike from the record the evidence submitted in the Examining Attorney's response brief of August 24, 2015.

On October 16, 2015, the TTAB ordered that the parties submit new briefs to be directed to only the issue of mere descriptiveness under Section 2(e)(1). The TTAB further ordered that the briefs should be directed to only the evidence submitted prior to the filing of the notice of appeal on January 13, 2015.

On October 23, 2015, the applicant filed its appeal brief.

### **PRELIMINARY MATTERS**

In its appeal brief filed on October 23, 2015, the applicant spends a great deal of time discussing whether its mark is generic. However, as noted above, the TTAB has specifically directed that the lone issue on appeal is that of mere descriptiveness under Section 2(e)(1). Per that direction from the TTAB, the Examining Attorney will only argue the merits of the Section 2(e)(1) refusal and will not respond to the applicant's discussion about the generic or non-generic nature of its mark.

Additionally, in the Appeal Brief filed on October 23, 2015, the applicant states that "On October 16, 2015, the Board asked the Applicant amends the rejection to be broader and relate to both a "mere descriptiveness under Section 2(e)(1), or on the Supplemental Register based on genericness under Section 23(c)." (Applicant's Appeal Br. p. 4). Due to the verbiage used in this statement it is not clear what the applicant is suggesting the Board "asked the Applicant" to do. However, the Board's letter of October 16, 2015, states clearly that the current briefs "must be directed to only the issue of mere descriptiveness under Section 2(e)(1) of the Act. Further, the briefs should be directed to only the evidence submitted prior to the filing of the notice of appeal on January 13, 2015." It is not clear how the applicant construed this directive to incorporate a generic refusal under Section 23(c) as part of the briefs to be filed after October 16, 2015. However, and as noted above, per the Board's direction, the examining attorney is basing the refusal in this brief solely on mere descriptiveness under Section

2(e)(1). Further, the examining attorney is only using evidence that was submitted into the record prior to January 13, 2015.

Also in the Appeal Brief of October 23, 2015, the applicant states that “In the event this Board ultimately finds this mark to be descriptive but not generic (which Applicant strongly does not believe), then this Board is given power to amend the basis and slide the application to the Supplemental Registry.” (Applicant’s Appeal Br. p. 6). TBMP Section 1215 states that “If, in an application that is the subject of an ex parte appeal to the Board, the applicant has asserted alternative positions (such as, that its mark is not merely descriptive of its goods and/or services, and that the mark has, in any event, become distinctive of its goods and/or services in commerce; or that its mark has become distinctive of its goods and/or services in commerce, and that the mark is, in any event, registrable on the Supplemental Register), the examining attorney should clearly state his or her position with respect to each of the applicant’s alternative claims.” Pursuant to TBMP Section 1215, the examining attorney, based upon the entire prosecutorial history of this case, believes that should the TTAB find that the mark is merely descriptive, that an amendment to the Supplemental Register would not place the application in condition for registration.

## **ISSUES**

The issues on appeal are (1) whether the mark “CHOCOLATE GLAÇAGE” describes an ingredient, feature and characteristic of applicant’s goods. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*, (2) whether the Doctrine of Foreign Equivalent applies to the mark “CHOCOLATE GLAÇAGE.”

## **ARGUMENT**

- 1. THE MARK “CHOCOLATE GLAÇAGE” IMMEDIATELY DESCRIBES AN INGREDIENT, FEATURE AND CHARACTERISTIC OF THE GOODS AND THEREFORE IS NOT REGISTRABLE UNDER TRADEMARK ACT SECTION 2(e)(1).**

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods and/or services. TMEP §1209.01(b); *see, e.g., In re TriVita, Inc.*, 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

The applicant has applied for the mark CHOCOLATE GLAÇAGE for "Icing and glazes for cakes, pies, donuts, and bakery goods." The term "CHOCOLATE" is defined as "a food prepared from ground roasted cacao beans."

(See [https://www.google.com/?gws\\_rd=ssl#q=chocolate+definition](https://www.google.com/?gws_rd=ssl#q=chocolate+definition) ). (Outgoing Office Action dated 07/16/2014). The term "GLAÇAGE" is a word of French origin that means "icing." ( See <http://dictionary.reverso.net/french-english/gla%C3%A7age> ). (Outgoing Office Action dated 07/16/2014).

As the definitions clearly demonstrate, each constituent word describes an ingredient (CHOCOLATE) and feature and characteristic of the goods, (CHOCOLATE and GLAÇAGE). Further, each word retains its descriptive meaning when combined such that the composite formed does not create a different, non-descriptive meaning. Generally, if the individual components of a mark retain their descriptive meaning in relation to the goods and/or services, the combination results in a composite mark that is itself descriptive and not registrable. *In re Phoseon Tech., Inc.*, 103 USPQ2d 1822, 1823 (TTAB 2012); TMEP §1209.03(d); *see, e.g., In re King Koil Licensing Co.*, 79 USPQ2d 1048, 1052 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of beds, mattresses, box springs, and pillows where the evidence showed that the term "BREATHABLE" retained its ordinary dictionary meaning when combined

with the term “MATTRESS” and the resulting combination was used in the relevant industry in a descriptive sense); *In re Associated Theatre Clubs Co.*, 9 USPQ2d 1660, 1663 (TTAB 1988) (holding GROUP SALES BOX OFFICE merely descriptive of theater ticket sales services, because such wording “is nothing more than a combination of the two common descriptive terms most applicable to applicant’s services which in combination achieve no different status but remain a common descriptive compound expression”).

In this case, both the individual components and the composite result are descriptive of applicant’s goods and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods. The evidence of record clearly demonstrates that the compound term “CHOCOLATE GLAÇAGE” is immediately understood to refer to chocolate glacage-type icing and glazes, and therefore the wording does not create a unique, incongruous, or nondescriptive meaning in relation to the goods. For example, the following websites and blogs feature recipes for making CHOCOLATE GLAÇAGE:

[https://www.howtocookthat.net/public\\_html/chocolate-glacage-glassage-chocolate-mirror-glaze/](https://www.howtocookthat.net/public_html/chocolate-glacage-glassage-chocolate-mirror-glaze/) (recipe for chocolate glacage – “Above is an entremet (recipe here)- covered in **chocolate glacage** – yes it was delicious!”) (Outgoing Office Action dated 12/29/2014)

<https://www.noodle.com/learn/details/89971/how-to-make-chocolate-glacage-glaze-frosting-for-dessert-ann-reardon-how-to-cook-that-ep009> - (explaining how to make chocolate glacage glaze frosting – “how to make **chocolate glacage** glaze frosting for dessert”) (Outgoing Office Action dated 12/29/2014)

<http://eileenscookery.blogspot.com/2012/09/steamed-chocolate-cake-with-chocolate.html> - (A blog featuring a cake with chocolate glacage – “Steamed Chocolate Cake With **Chocolate Glacage**”) (Outgoing Office Action dated 12/29/2014)

<http://radiantchocolate.com/tag/how-to-make-chocolate-glacage-glaze-frosting/> - (Article and video featuring recipe for chocolate glacage – “How to Make **Chocolate Glacage** Glaze Frosting”) (Outgoing Office Action dated 12/29/2014)

<http://sarahspuredecadencefolio.weebly.com/chocolate-glacage.html> – (Recipe for **chocolate glacage**) (Outgoing Office Action dated 12/29/2014)



<http://winterinculinaryschool.blogspot.com/2011/06/chocolate-glacage.html> – (Blog featuring recipe for chocolate glacage. “**Chocolate Glacage** - This is a glaze that is a little bit thicker consistency than ganache that you enrobe with, but not quite as thick as fondant. It should be of a spreading consistency and should give a nice flat gloss to a dessert”) (Outgoing Office Action dated 12/29/2014)

<http://tenplay.com.au/channel-ten/masterchef/recipes/aria-chocolate-tart> – (Website featuring recipe for chocolate glacage icing. “**Chocolate glacage** (chocolate glaze) 1. Place chocolate in a large bowl and set aside. 2. Place cream in a saucepan and bring to the boil. 3. Pour cream over chocolate in bowl and stir until smooth, stir in chocolate sauce”) (Outgoing Office Action dated 12/29/2014)

<http://rockdavinci.blogspot.com/2012/11/2012-hallowwen-oreo-bat-cave-cake-with.html> – (Blog featuring recipe for chocolate glacage icing. “Oreo Bat Cave Cake with **Chocolate Glacage**”) ((Outgoing Office Action dated 12/29/2014)

It is noted that in each of the above websites, no explanation as to the meaning of “CHOCOLATE GLAÇAGE” is required. That is, the wording “CHOCOLATE GLAÇAGE” as used in these websites immediately and unmistakably refers to a particular type of chocolate icing or chocolate glazes.

Additionally, the compound term “CHOCOLATE GLAÇAGE” is pervasive and immediately recognized and understood without translation of the term “GLAÇAGE” into the English language when used in conjunction with icing and glazes. For example, the following websites feature recipes, descriptions, and blogs discussing CHOCOLATE GLAÇAGE with no translation required of the term “GLAÇAGE.” As with the websites and blogs discussed above, for the following websites the wording “CHOCOLATE GLAÇAGE” immediately and unmistakably refers to chocolate icing.

<http://www.hereghty.com/pastry.php> – (Entity that provides description of cakes topped with chocolate glacage. For example, “Paris Cake Layers of dark chocolate mousse and chocolate sponge with a hint of rum, finished with dark **chocolate glacage**” – “Majorca Layers of moist chocolate cake and passion fruit mousse topped with dark **chocolate glacage**” – “London Chocolate cake with raspberry buttercream filling, finished with **chocolate glacage**, toasted slivered almonds, and fresh fruit”) (Outgoing Office Action dated 12/29/2014)

<http://www.urbanspoon.com/dish/6/90415/66176680/classic-chocolate-satura-cakes-palo-alto> – (Entity that provides baked goods topped with chocolate glacage. For example, “Classic Chocolate - milk

and dark chocolate mousse layered between a soft flour sponge, coated with a **chocolate glacage**) (Outgoing Office Action dated 12/29/2014)

<http://bossacafez.blogspot.com/2012/12/chocolate-banana-yule-log.html> – (Blog featuring article on Chocolate Banana Yule Log covered in chocolate glacage icing. The following appears under a picture the Chocolate Banana Yule Log – “layers from top : **chocolate glacage**, chocolate biscuit joconde, banana mousse, banana gelee, sautéed banana center and walnut creme patissiere”) (Outgoing Office Action dated 12/29/2014)

<http://amazingcakes.ca/portfolio-view/airy-chocolate-lace-cake-with-vanilla-souffle-and-berry-filling/> - Entity that provides a cake covered in chocolate glacage. “A frill of chocolate lace and layers of luscious flavors lend formal flair to your after-dinner festivities. My Chocolate Lace Cake features fully five tiers of sumptuous tastes and textures. Sweet berries top a chocolate sponge base, and the creamy vanilla soufflé creates a sweet counterpoint to the chocolate mousse layer. A topping of dark **chocolate glacage** makes a glistening, smoothly sweet finish to this fabulous confection) (Outgoing Office Action dated 12/29/2014)

<http://lovejoybakers.com/custom-order-cakes-for-birthdays-events/> - (Entity that provided cakes that feature chocolate glacage. “Frosting Options: Vanilla, chocolate, hazelnut or espresso butter cream; Chocolate ganache (poured or whipped); **Chocolate glacage** (shiny poured chocolate) (Outgoing Office Action dated 12/29/2014)

The referenced evidence makes clear that the compound term “CHOCOLATE GLAÇAGE” immediately refers to the goods of chocolate icing and glazes. Specifically, the wording “CHOCOLATE GLAÇAGE” is used to describe chocolate icing and glazes by chefs, in recipes, and by entities that sell icing and glazes.

The totality of this evidence clearly demonstrates that the wording “CHOCOLATE GLAÇAGE” refers to the goods of chocolate icing and glazes, and that the wording “CHOCOLATE GLAÇAGE” is immediately recognized and understood by the relevant public as referring to chocolate icing and glazes. Thus, the proposed mark immediately describes an ingredient, feature and characteristic of the goods, and is therefore merely descriptive.

In its current brief, the applicant’s counsel states that he has “first-hand experience” with the word “glacage.” (Applicant’s Appeal Br. p. 10). The applicant’s counsel then states that the term “is not

present” in a French dictionary from the Province of Quebec. (Id.). However, it is well settled that the fact that a word or term is not found in the dictionary is not controlling on the question of registrability when the word or term has a well understood and recognized meaning. *In re Orleans Wines, Ltd.*, 196 USPQ 516, 517 (TTAB 1977); TMEP §1209.03(b); see *In re Gould Paper Corp.*, 834 F.2d 1017, 1018, 5 USPQ2d 1110, 1111-12 (Fed. Cir. 1987); *In re Planalytics, Inc.*, 70 USPQ2d 1453, 1456 (TTAB 2004); *In re Tower Tech Inc.*, 64 USPQ2d 1314 (TTAB 2002).

The applicant’s counsel also relates a conversation he had with his mother in which she asked him “Tu veux du frosting sur ton gateau?” – Which translates into “Do you want frosting on your cake?” (Id.). Based upon this conversation, the applicant then concludes that “The claim that consumers in the United States would immediately understand GLAÇAGE is unfounded.” (Id.). Applicant’s counsel’s recollections are certainly not dispositive for a wide class of consumers as to their understanding of the term GLAÇAGE.

Using a printout of the TESS database, the applicant then speculates as to why others have not applied for trademarks that contain the term GLAÇAGE. (Id.). The test of mere descriptiveness is not whether or not others have applied to use the mark as a trademark. The Examining Attorney will reiterate that the evidence presented here clearly demonstrates that the wording “CHOCOLATE GLAÇAGE” refers to the goods of chocolate icing and glazes, and that the wording “CHOCOLATE GLAÇAGE” is immediately recognized and understood by the relevant public as referring to chocolate icing and glazes.

Also in its current brief, the applicant argues that the submitted evidence retrieved from the Internet is “not evidence” because some of the sites do not originate in the United States. Citing no legal precedence the applicant states that “The use of the mark in every English speaking country is inconsequential as to how American market/authors would perceive the mark.” (Applicant’s Appeal Br.

p. 14). The applicant then proceeds to dissect several of the webpages (and some that are not part of the evidence submitted with this brief), and concludes that the sites are not relevant because they do not originate in the United States. (Applicant's Appeal Br. pp 14-22).

However, it has been established that Internet evidence from websites located outside the United States may have probative value depending on the circumstances, including whether U.S. consumers would likely have been exposed to the foreign website. *See In re Florists' Transworld Delivery Inc.*, 106 USPQ2d 1784, 1786 (TTAB 2013) (applicant's relevancy objection to evidence submitted by the examining attorney from foreign websites overruled because evidence regarding the significance of the color black on floral packaging "would be difficult to locate"); *In re Int'l Bus. Machs. Corp.*, 81 USPQ2d 1677, 1681 n.7 (TTAB 2006) (web page from foreign source considered as case involved computer technology, and "it [was] reasonable to consider a relevant article regarding computer hardware" from an English-language website from another country); TBMP §1208.03.

In this case, all of the attached websites are in the English language. Additionally, when gathering the above websites, the examining attorney merely entered the wording "CHOCOLATE GLAÇAGE" into the Google® search engine and the sites that appeared all associated that wording with icing and glazes. Thus, because the websites are all in the English language, and U.S. consumers are routinely exposed to these websites, foreign or not, the websites are clearly relevant evidence on how the wording "CHOCOLATE GLAÇAGE" is perceived and understood in the United States.

Further, material obtained from the Internet is generally accepted as competent evidence. *See In re Nieves & Nieves LLC*, 113 USPQ2d 1639, 1644-47 (TTAB 2015) (accepting Internet evidence to show false suggestion of a connection and that a name identified a particular living individual whose written consent to register was required); *In re Jonathan Drew Inc.*, 97 USPQ2d 1640, 1641-42 (TTAB 2011) (accepting Internet evidence to show geographic location was well-known for particular goods); *In re*

*Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009) (accepting Internet evidence to show relatedness of goods in a likelihood of confusion determination); *In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008) (accepting Internet evidence to show descriptiveness); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305, 1308-09 (TTAB 2006) (accepting Internet evidence to show geographic significance); *In re Gregory*, 70 USPQ2d 1792, 1793, 1795 (TTAB 2004) (accepting Internet evidence to show surname significance); TBMP §1208.03; TMEP §710.01(b).

The Internet has become integral to daily life in the United States, with Census Bureau data showing approximately three-quarters of American households used the Internet in 2013 to engage in personal communications, to obtain news, information, and entertainment, and to do banking and shopping. See *In re Nieves & Nieves LLC*, 113 USPQ2d at 1642 (taking judicial notice of the following two official government publications: (1) Thom File & Camille Ryan, U.S. Census Bureau, Am. Cmty. Survey Reports ACS-28, *Computer & Internet Use in the United States: 2013* (2014), available at <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acs-28.pdf>, and (2) The Nat'l Telecomms. & Info. Admin. & Econ. & Statistics Admin., *Exploring the Digital Nation: America's Emerging Online Experience* (2013), available at [http://www.ntia.doc.gov/files/ntia/publications/exploring\\_the\\_digital\\_nation\\_-\\_americas\\_emerging\\_online\\_experience.pdf](http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf)). Thus, as is the case here, the widespread use of the Internet in the United States suggests that Internet evidence may be probative of public perception in trademark examination.

For the above stated reasons, the applicant's mark is deemed to descriptive when applied to the goods. As such, the application is properly refused registration under Section 2(e)(1).

## **2. DOCTRINE OF FOREIGN EQUIVALENT DOES NOT APPLY TO THE PRESENT CASE.**

In its Appeal Brief of October 23, 2015, the applicant argues that the Doctrine of Foreign Equivalent does not apply to the mark “CHOCOLATE GLAÇAGE.” (Applicant’s Appeal Br. pp 6-13). Based upon the fact that the mark is immediately recognized and understood by the general public as merely describing the applicant’s goods of icing and glazes, the examining attorney agrees that the Doctrine is not applicable in this case.

### **CONCLUSION**

The applied-for mark “CHOCOLATE GLAÇAGE” immediately describes an ingredient, feature and characteristic of the applicant’s goods. Additionally, as the evidence of record makes clear, the wording “CHOCOLATE GLAÇAGE” immediately refers to chocolate icing and glazes, and the relevant public would immediately understand “CHOCOLATE GLAÇAGE” to refer to such icings and glazes. As such, the proposed mark “CHOCOLATE GLAÇAGE” is merely descriptive when applied to the applicant’s goods. Accordingly, for all the foregoing reasons, it is respectfully requested that the refusal to register Applicant’s mark under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1), be affirmed.

Respectfully submitted,

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**DESCRIPTION OF THE RECORD / EVIDENCE**

**On April 18, 2014**, Appellant filed U.S. Application Serial 86/256,664 for the mark CHOCOLATE GLAÇAGE for icing and glazes for cakes, pies, donuts, and bakery goods in International Class 030. The entire prosecution record for U.S. Serial 86/256,664 is *de facto* of record in this Appeal as evidence.

**On July 16, 2014**, the Examiner issued a first non-final action. Examiner Ty Murray asked for a translation of the term GLAÇAGE, and rejected Appellant's mark CHOCOLATE GLAÇAGE under Section 2(e)(1) as merely descriptive. The Examiner also issued an advisory opinion that the mark could be generic. Four pieces of evidence were offered in support of the advisory opinion, namely:

1. *An online French-English dictionary printout of the French word 'glacage' which suggests the word translates into icing and glazing. (dictionary.reverso.net)*
2. *An online English dictionary printout of the English word 'chocolate' which suggests it is a food made from cacao beans. (merriam-webster.com)*
3. *Three websites where 'Chocolate Glacage' (an English variation) is used as evidence of genericness. (Radiant Chocolate, Fame Co. Kuwait, and Ziplist).*
4. *Four websites that illustrate how the expression Chocolate Glaze/Icing can be considered generic and not the mark as filed. (Yummly, Epicurious, AllRecipes.com, and Betty Crocker).*

**On August 15, 2014**, the Applicant entered a specimen of use of the mark. (See below). Applicant amended to actual use. The specimen was accepted on August 26, 2014. On August 27, 2014, Applicant amended the application to the Supplemental Register in an effort to avoid costly litigation and overcome any descriptiveness rejection.





Specimen CHOCOLATE GLAÇAGE™ ICING

**On September 16, 2014**, the Examiner amended the rejection from advisory genericness to actual genericness and issued a second non-final rejection under Section 23(c). No new evidence was entered by the Examiner in support of the rejection.

**On October 9, 2014**, Applicant amended back to the Principal Register and offered a translation of GLAÇAGE as either “icing, glazing, or frosting,” and filed a response. Applicant argued the doctrine of foreign equivalents was inapplicable to this mark. In addition to rebutting the *prima facie* case of the Examiner, Applicant entered the following evidence and relevant case law:

1. *A French-Canadian Dictionary showing Glacage is not used in Quebec. (Le Petit Robert Quebecois)*
2. *A copy of French Transit, Ltd v. Modern Coupon Systems, Inc., 818 F.Supp. 635 (S.D.N.Y. 1993) (Evidence French/English Composite mark Le Crystal Naturel not to be Translated)*
3. *A copy of In re Johanna Farms Inc., 8 U.S.P.Q.2d 1408 (TTAB 1988) (La Yogurt different commercial impression).*

**On November 6, 2014**, after a long discussion over the phone, the Office grants allowance and asks for a disclaimer of GLAÇAGE from the mark as a whole. By Examiner Amendment, the disclaimer is entered. CHOCOLATE GLAÇAGE is approved for publication on the Principal Registry.

**On November 16, 2014**, merely ten days after allowance, the Office withdraws the allowance and while the Application remained on the Principal Register, a third non-final rejection was made based on Trademark Act Section 23(c), 15 U.S.C. § 1209.01(c). No new evidence is entered in support of the *prima facie* case of genericness.

**On December 29, 2014**, in an effort to avoid appeal, the Applicant sent formally and informally the Examiner a draft of the current brief.

1. *Additional pages from cited websites to rebut source of origin.*
2. *A TESS printout of GLACAGE applications.*
3. *Several TESS printout of French Words*
4. *Google Evidence of relative strength between VEUVE and GLACAGE.*

**On December 29, 2014**, hours after Applicant entered the third response, the Examiner issued a fourth action. The Examiner entered a handful of additional websites as further evidence of genericness, these included two foreign hosted sites, and four blogs:

5. *Noodles.com*
6. *Cooksacademy.com*
7. *Hereghty.com*
8. *Tvelasquez.worldpress.com*
9. *Mywifemakes.com*
10. *Urbanspoon.com*
11. *Lovejoybakers.com*
12. *Sarahspuredecadencefolio.weebly.com*
13. *Winterinculinaryschool.blogspot.com*
14. *Eileenscookery.blogspot.com*
15. *Rockavinci.blogspot.com*
16. *Bossacafez.blogspot.com*
17. *Tenplay.com.au*
18. *Amazingcakes.ca*

**On October 16, 2015**, the Board asked the Applicant amends the rejection to be broader and relate to both a “mere descriptiveness under Section 2(e)(1), or on the Supplemental Register based on genericness under Section 23(c).”

### **THE ISSUES ON APPEAL**

### **Does the Doctrine of Foreign Equivalent Apply to CHOCOLATE GLAÇAGE?**

Is the word GLACAGE capable of immediate translation, and if so, can a French word, as part of a two word mark, where the first word is English and the second French still qualify for the doctrine of foreign equivalent so the mark CHOCOLATE GLACAGE be translated as CHOCOLATE ICING for the purpose of 2(e)(1) genericness / descriptiveness rejection?

### **15 U.S.C. § 1052(e)(1): Is CHOCOLATE GLAÇAGE Descriptive / Generic?**

In the event the doctrine of foreign equivalent is not available to the mark CHOCOLATE GLAÇAGE for icing and glazes for cakes, pies, donuts, and bakery goods in International Class 030, has the Examiner proven by clear and convincing evidence the mark CHOCOLATE GLACAGE is generic / descriptive in the United States?

### **ARGUMENT**

#### **Post Appeal Prosecution is Evidence Some Websites are Unworthy of Consideration**

Over the last eight months, the parties have engaged in prosecution which resulted in the Board's October 16, 2015 order. TTABVIEW Dkt. #19. The evidence entered by the Examiner is designed to support a case of genericness, not descriptiveness. As part of the prima facie case, a handful of websites are listed. After remand, the Examiner slashed about half the cited evidence from his prima facie case. While none of the newly presented evidence introduced in 2015 should be considered as per the Board's own order, what is noteworthy is how by dropping the evidence, the Examiner casts a shadow over most of the evidence and concedes many of the points made hereafter. When a proposed mark is refused registration as generic, the Trademark Attorney has the burden of proving genericness by "clear evidence" thereof. See *In re Hotels.com*, 573 F.3d 1300, 91 USPQ2d 1532, 1533 (Fed. Cir. 2009); *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111 (Fed. Cir. 1987). For the evidence to be clear, it cannot have shadows upon it. For example, Of the thirteen references, at least four should not be considered by this Board.

#### **Descriptiveness Rejection**

For the record to be complete, the Board reminded the Applicant that the Office enjoys treating genericness alongside descriptiveness on a spectrum. While only a generic rejection remains from the USPTO, the Board may review issues of descriptiveness and genericness. Marks can be generic without being descriptive and vice versa. *In re Heirloom LA, LLC*, Ser. No. 85/552,395 (Lasagna Cupcakes found generic while not descriptive of hand-held lasagne portions cooked in metal sheet forms). In this case a descriptiveness rejection was initially made by Examiner and later withdrawn as it was overcome by Applicant. These arguments are in the record and if the Board decides to revisit this issue, are incorporated herein and kept for appeal.

The fact the Office withdrew this rejection is strong evidence CHOCOLATE GLAÇAGE is not descriptive primarily because of the doctrine of foreign equivalence. Furthermore, no *prima facie* case of rejection exists on the issue of descriptiveness nor is there any evidence to support any such conclusion.

That being said, as this Applicant once explained to the USPTO, benefitting from a business model founded on tradition and longevity, the Applicant does not take issue with a 2(f) period on the Supplemental Registry to overcome presumption of descriptiveness. In the event this Board ultimately finds this mark to be descriptive but not generic (which Applicant strongly does not believe), then this Board is given power to amend the basis and slide the application to the Supplemental Registry.

#### **Understanding The Doctrine of Foreign Equivalent:**

The law does not allow Examiners to translate foreign words and replace the English equivalent as part of the *prima facie* case of rejection. In some rare cases, a foreign word is powerful enough to cause ripples as it enters the United States. For example, the word AGUA is Spanish word for water. While most people do not speak Spanish in the United States, most people know this word to be water. As the term is seen, it will be translated in the mind of consumers. When Americans (Spanish speakers or not) see the mark BLUE AGUA, the second word is immediately translated as “water” and the mark as read, using the doctrine of foreign equivalent becomes “BLUE WATER.” If in fact, water is blue, the product is sold

in a blue bottle, the mark can be found to be highly descriptive or even generic. If another mark exists on the register for BLUER WATER, then a 2(d) rejection is proper.

French, like Spanish is a language in which some words have been given a passport to travel to the United States. For example, words like baguette, vin, beret, and pain are generally known for what they mean (e.g. loaf, wine, cap, and bread respectively). Today this Court is asked to decide if the word “glaçage” owns such a passport and therefore if ordinary customers who see the mark CHOCOLATE GLAÇAGE will stop and translate in their minds the mark into CHOCOLATE ICING. Applicant does not dispute the fact that CHOCOLATE ICING is generic for chocolate flavoured icing, Applicant argues the doctrine of foreign equivalent does not apply.

The doctrine of foreign equivalents is not commonly applied. It is limited in multiple and relevant ways. For example, the famous use of a pronoun LE or LA borrowed from the French, used as a prefix to any generic name in English creates a new mark which is not generic. *In re Owens-Illinois, Inc.*, 217 USPQ 344 (TTAB 1982). (LE JAR for glass container not generic under the foreign equivalent doctrine). So while LE and LA are words which are known and translated into THE, the mark does not become generic as a matter of law. A French prefix attached to an English generic word draws the mark outside of the doctrine of foreign equivalent. In the above example, an Examiner cannot transform LE JAR into THE JAR and find the mark generic for containers. *In re Owens* stands for the fact that as a matter of law, when a two word mark includes one single word in French and the other in English, the doctrine does not apply.

In another stronger case, this Board articulated this distinction very closely. In *In re Johanna Farms Inc.*, the mark LA YOGURT where one word is French, the other English was found to have a different commercial impression and therefore registrable. “The Board stated that . . . the nub of the issue under this analysis is whether 'Frenchifying' the American-English generic term 'yogurt' by the mere addition of an article (whether it be 'le' or 'la' makes no difference) can alter the commercial impression of

the generic term so that it is capable of distinguishing the source of such product..." Ultimately the Court overruled the Board and found LA YOGURT worthy of protection. The Court wrote:

Our conclusion is supported by the record in this ex parte proceeding, which demonstrates that the primary significance of LA YOGURT to most of the relevant public is that of a brand name and not a generic term. There is no dispute that "the burden of showing that a proposed trademark is generic remains with the Patent and Trademark Office," and that this burden of proof must be satisfied with "clear evidence of generic use." *In re Merrill Lynch*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (CAFC 1987). Not only has the Examining Attorney failed to carry this burden, but the applicant has submitted numerous consumer letters and a survey showing that most members of the relevant public do not "primarily use or understand the term [LA YOGURT] to refer to the genus of goods [yogurt]. . . ." *H. Marvin Ginn Corp. v. International Association of Fire Chiefs Inc.*, 782 F.2d 987, 989-90, 228 USPQ 528, 530 (Fed. Cir. 1986).

Based on this precedent alone, CHOCOLATE GLAÇAGE, where one term is English, the other French the mark does not fall under the doctrine of foreign equivalent and is not generic for chocolate icing.

In yet another case, this time from a District Court, the doctrine was found inapplicable when nouns or adjectives were translated in two different languages as part of the same mark. In *French Transit, Ltd. v. Modern Coupon Systems, Inc.*, 818 F.Supp. 635 (S.D. NY 1993), the mark LE CRYSTAL NATUREL for deodorant was analysed. In this three word mark, the middle word is English and the two flanking words are French (i.e. LE and NATUREL). The Court wrote: "The doctrine of foreign equivalents is inapplicable in the present case.... The doctrine does not apply when a mark is a combination of foreign and English words." *French Transit, Ltd. v. Modern Coupon Systems, Inc.*, 818 F.Supp. 635 (S.D. NY 1993). The District Court found that when groups of words are assembled in a composite mark to form a new mark, where two are in French and one is in English, the combination does not fall within the scope of the doctrine of foreign equivalent for the determination of genericness. Here LE CRYSTAL NATUREL cannot be translated to THE CRYSTAL NATURAL for the purpose of review as a matter of law. This conclusion makes sense. When any two words are assembled, even for very well-known words, the marks are equally strange and function. For example the marks PAIN

CUTTER for a bread knife (e.g. “pain” is bread in French), and VELO PAINT for bicycle paint (e.g. “velo” is bicycle in French), are not subject to the doctrine of foreign equivalents.

Stated simply, each time a mark has both French and English words, the doctrine simply does not apply and CHOCOLATE GLACAGE cannot be translated to CHOCOLATE GLAZE or CHOCOLATE ICING for the purpose of rejection.

The use of the doctrine of equivalent also requires one additional key finding; the word to be translated must ‘have its passport.’ “The doctrine [of foreign equivalent] is applied when it is likely that an ordinary American purchaser would “stop and translate” the foreign term into its English equivalent. *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d at 1377, 73 USPQ2d at 1699 (quoting *In re Pan Tex Hotel Corp.*, 190 USPQ 109, 110 (TTAB 1976)). In *Palm Bay* was the Board’s decision to apply the doctrine of foreign equivalents to the word VEUVE as part of the VEUVE ROYAL v. VEUVE CLICQUOT analysis. The Federal Circuit reversed the Board. In the reversal, the Court wrote: “When it is unlikely that an American buyer will translate the foreign mark and will take it as it is, then the doctrine of foreign equivalents will not be applied.” *In re Tia Maria, Inc.*, 188 U.S.P.Q. 524 (T.T.A.B.1975) (emphasis added).

Once again, this case relates to French words used in American marks. The VEUVE CLICQUOT, the mark also was a food item and the marks were composites formed with two medium sized words. It is difficult to imagine a case more relevant to the current mark. The Federal Circuit explains that VEUVE is a word so rare, it is not translated in the mind and the doctrine of foreign equivalent will not apply.

The Examiner submits that GLAÇAGE, a much rarer word, somehow is well known and translated in the minds of Americans. The Examiner argues that “... as the evidence makes clear, consumers immediately understand that the wording “Chocolate Glacage” refers to the chocolate icing and glazes. See previously attached evidence.” See 11/16/2014 Office Action. (Emphasis added). The statement is wrong.

Applicant's counsel has first-hand experience with this word. He explained he was raised in the Province of Quebec, the portion of Canada speaking French. To him, the term Glaçage was not even in use. A copy of the French dictionary from the Province of Quebec dictionary was offered as evidence to show either GLACAGE or GLAÇAGE are not present in the dictionary. It is difficult to imagine a word absent from a dictionary is well known and will result in the "stop and translate" effect needed for the doctrine to work.

In Quebec, it is common for the English version of words to be used within the language. Frosting, and bacon, are such words. Applicant's counsel's mother would ask him: "Tu veux du frosting sur ton gateau?" – Which translates into "Do you want frosting on your cake?" The claim that consumers in the United States would immediately understand GLAÇAGE is unfounded.

If the word GLAÇAGE is well known in the United States, surely others would have tried to use the word as part of marks. Applicant indexed this word in the TESS database and as it turns out, over the last 200 years, in the 8+ million applications, one application filed which includes the word GLAÇAGE (aside from Applicant's two marks). (See below and attached as Exhibit A).

The screenshot shows the USPTO TESS search results page. At the top, it says "United States Patent and Trademark Office" and "Trademarks > Trademark Electronic Search System (TESS)". Below this, it indicates "TESS was last updated on Mon Nov 17 03:20:58 EST 2014". The search results show "3 Records(s) found (This page: 1 ~ 3)". The search criteria are "glacage][COMB" and "Current Search: S1: [glacage][COMB] docs: 3 occ: 15". The results are displayed in a table with columns: Serial Number, Reg. Number, Word Mark, Check Status, and Live/Dead.

Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1 86256664		CHOCOLATE GLAÇAGE	TSDR	LIVE
2 86386948		GLAÇAGE ICING	TSDR	LIVE
3 76605200	3003456	MIRACLE GLAÇAGE	TSDR	DEAD

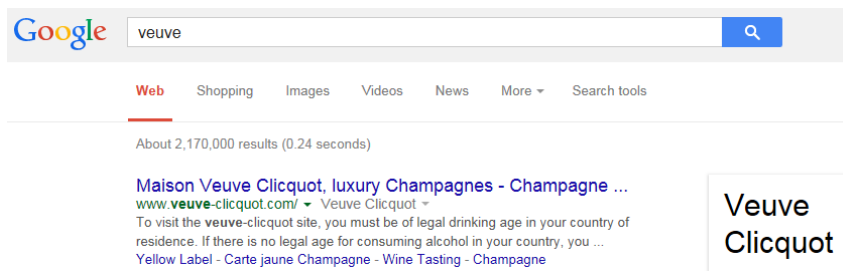
#### Use of Glacage/Glaçage Current TESS Registry

It was allowed and abandoned. It is hard to imagine in this context that anyone believes GLAÇAGE is well known or in great use in the United States. It is impossible with this evidence at hand

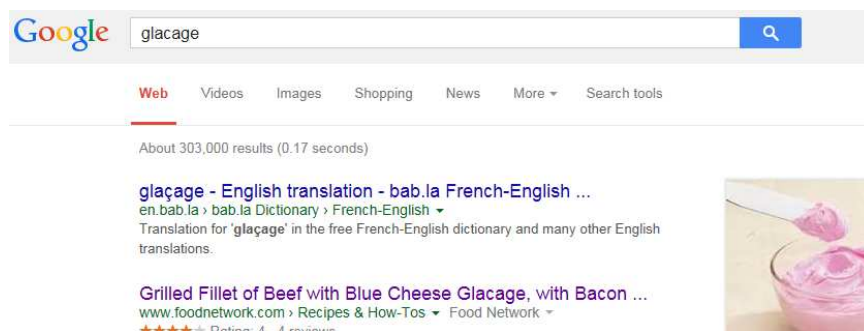


to imagine customers will 'stop and translate' the word. To help sway the Examiner, Applicant took a look at other French words as they are used in the USPTO TESS database. The word PAIN has 2288 records, BAGUETTE 102 records, BERET 46 records, FROMAGE 71 records, and VIN 547 records. A word like VEUVE found by the Federal Circuit not to be sufficiently known has 38 records. (See TESS reports as Exhibit B). There is simply no evidence entered by the Examiner which shows that GLAÇAGE is common, well-known and would result in a "stop and translate" in the mind of customers. The Office's conclusion that GLAÇAGE is somehow immediately translated in the mind of consumers into icing is simply wrong and unsupported by any of the evidence.

Applicant also offered evidence from the search engine like Google.com. When Applicant enters "VEUVE" a total of 2,170,000 results are returned. When Applicant enters "GLAÇAGE" about 15% of the number of results is returned. (See below).



Word Veuve Entered into Google.com = 2,170,000 results



Word Glacage Entered into Google.com = 303,000 results

The rationale of the doctrine of foreign equivalents is to protect the perceptions of ordinary American consumers who are multilingual in the second language. *McCarthy on Trademarks*, § 12:41.

For the doctrine to work, there must be a significant portion of the ordinary American purchasers who are knowledgeable in English as well as the pertinent foreign language. *In re Spirits International N.V.*, 86 USPQ2d 1078 (TTAB 2008).

The word GLAÇAGE, much like the word VEUVE are generally unknown to ordinary Americans. *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1377 (Fed. Cir. 2005). In the case of *In re Le Sorbet, Inc.*, 228 USPQ 27, 30-31 (TTAB 1985), the French term SORBET was found to be one of these terms capable of immediate recognition by the American buyer. GLAÇAGE is closer to the word VEUVE than the word SORBET in this range.

No mother in the United States asks her child to buy “chocolate glaçage” on her way back from school. No child asks his mother to make sure the cake has “chocolate glaçage” on it. No one indexes on a search engine “chocolate glaçage “ in the last 200 years, only one other applicant has ever filed an application with this Office for a mark including the word “glaçage.” In fact, keyboards do not include the French letter “ç” and the mark as filed cannot be typed, indexed, or even reviewed. Some rare marks, some rare words from other languages have recognition in the United States and when these words are used, they may be perceived as their English equivalents.

One final key piece of evidence shown to the Examiner as evidence the “stop and translate” is Applicant’s own specimen (reproduced below). Applicant directs the Board to Applicant’s own use of the word ICING after CHOCOLATE GLACAGE to help its own customers understand the nature of the product since obviously it does not believe they will “stop and translate.”



Here the mark is CHOCOLATE GLAÇAGE ICING

For this reason, GLAÇAGE or even GLACAGE is not a word people will “stop and translate” or will “immediately know” what it means. As a matter of law, the doctrine of foreign equivalent simply cannot be used to translated CHOCOLATE GLAÇAGE into CHOCOLATE ICING. Evidence introduced by the Examiner (analysed in detail below) shows that some very limited use exists of these two words in relation with icing. No evidence was offered by the Examiner showing that U.S. customers will know, recognize, or translate this foreign word when seen.

**CHOCOLATE GLAÇAGE is Not Generic**

Having shown that GLACAGE cannot be simply replaced by ICING as part of the analysis, the question becomes, is CHOCOLATE GLAÇAGE actually in wide use and generic for chocolate icing in the United States? The kindness and thoroughness of this Board is well known. Even if it agrees with Applicant that the doctrine of foreign equivalent is not available to the Examiner to reject a mark with two words of different languages, or that the doctrine requires a word more known, the Board will still look over all of the evidence to see if there is any way to demonstrate that CHOCOLATE GLAÇAGE as written (with its French and English words) is in fact either highly descriptive or generic. Multiple reasons show the mark is not generic:

*a. The Office Doubts*

Applicant worked closely with the Examining Attorney in relation with this Application. The allowance for publication of this mark in November resulted from Examining Attorney's own personal belief the mark should be allowed. Withdrawal from publication resulted (after being told) that this belief was not shared by all at the Trademark Office. The evidence of allowance/withdrawal from publication by at least a portion of the Office is evidence that doubt exists as to registrability of this mark. When doubt exists if a term is merely descriptive, the practice of the Board is to resolve doubt in favor of the applicant. *In re The Stroh Brewery Co.*, 34 USPQ2d 1796 (TTAB 1995). Moreover, any doubt whatsoever on the issue of genericness must be resolved in favor of the application. *In re Waverly Inc.*, 27

USPQ2d 1620, 1624 (TTAB 1993) quoted in *In re SRO Management, LLC*, Ser. No. 76/236,221 (TTAB 2004) (citable as precedent). After one year of prosecution, four non-final actions, the mark still is under review and the Examiner (even when asked in the last action) has refused to pass it to final for appeal. A term is generic or it is not. When difficulties arise in trying to prove something, here how CHOCOLATE GLAÇAGE is generic, it often is a red flag that such a thing cannot be proven as true. This doubt by the Office is strong evidence that the Board should side with Applicant.

*b. Foreign Websites are Not Evidence*

The totality of the evidence entered during the first three non-final actions was three websites. Applicant pointed to this problem and in the fourth non-final, the Examiner scoured the internet for 14 more sites. The Examiner in the fourth non-final entered fourteen more websites in an effort to salvage the rejection. Today, the entire case rests upon 17 sites listed below:

Additionally, the term "CHOCOLATE GLAÇAGE" is pervasive and general in the United States as it refers to icing. [https://www.howtocookthat.net/public\\_html/chocolate-glacage-glassage-chocolate-mirror-glaze/](https://www.howtocookthat.net/public_html/chocolate-glacage-glassage-chocolate-mirror-glaze/)  
<https://www.noodle.com/learn/details/89971/how-to-make-chocolate-glacage-glaze-frosting-for-dessert-ann-reardon-how-to-cook-that-ep009> - explaining how to make chocolate glacage glaze frosting;  
<http://eileenscookery.blogspot.com/2012/09/steamed-chocolate-cake-with-chocolate.html> - steamed cake with chocolate glacage frosting;  
<http://radiantchocolate.com/tag/how-to-make-chocolate-glacage-glaze-frosting/> - explaining how to make chocolate glacage glaze frosting;  
<https://www.pinterest.com/angeldrolet/pla%C3%A7age/> - chocolate glacage icing, frosting and glazes;  
[http://www.cooksacademy.com/Recipes/Chocolate\\_Glacage3545.html](http://www.cooksacademy.com/Recipes/Chocolate_Glacage3545.html) - recipe for chocolate glacage;  
<http://sarahspuredecadencefolio.weebly.com/chocolate-glacage.html> - recipe for chocolate glacage;  
<http://www.herehty.com/pastry.php> - description of cake topped with chocolate glacage;  
<http://tvelasquez.wordpress.com/tag/chocolate-glacage/> - Blog about chocolate glacage;  
<http://winterinculinaryschool.blogspot.com/2011/06/chocolate-glacage.html> - Blog about chocolate glacage;  
<http://tenplay.com.au/channel-ten-masterchef/recipes/aria-chocolate-tart/> - recipe that uses chocolate glacage icing;  
<http://www.mywifemakes.com/2014/10/26/pumpkin-spice-praline-mousse-cake/> - recipe that uses chocolate glacage icing;  
<http://rockdavinci.blogspot.com/2012/11/2012-halloween-oreo-bat-cave-cake-with.html> - recipe that uses chocolate glacage icing;  
<http://www.urbanspoon.com/dish/690415/66176680/classic-chocolate-satura-cakes-palo-alto> - cake frosted with chocolate glacage;  
<http://bosscafez.blogspot.com/2012/12/chocolate-banana-yule-log.html> - article on Chocolate Banana Yule Log covered in chocolate glacage icing;  
<http://amazingcakes.ca/portfolio-view/airy-chocolate-lace-cake-with-vanilla-souffle-and-berry-filling/> - cake covered in chocolate glacage;  
<http://lovejoybakers.com/custom-order-cakes-for-birthdays-events/> - chocolate glacage as option on cakes;

But scratching below the surface shows a shocking misuse of the search engine in this case. Trademark law is country specific; an online search is not. As part of the process of registration, the Examiner is entitled to enter evidence from a search engine and other websites to show how a mark is used in the United States. The use of the mark in every English speaking country is inconsequential as to how American market/authors would perceive the mark. Evidence of use in Australia, Kuwait, Canada, or even Japan should be discarded by the Board as irrelevant.

**Website #0: Fame Co. is in Kuwait**

The Examiner cites the website Fame Co. The website is a company named Fame Co. and it is the English translation of a page of a French cook who owns a store in Kuwait. The clients are in the Middle East and nothing suggests they sell or advertise in the United States. Evidence of a French cook located in Kuwait and offering local goods/services is not relevant to the determination of the mark in the United States.

### Websites #1, #2, and #4: Australian Use

On these pages, what is shown is a video which uses the expression “Chocolate Glacage Glaze Frosting.” It is reproduced below.



This site is a blog, without traffic, or any relevance. The video is attached to a website named “howtocookthat.net” where a woman named Ann Reardon helps talk about the glaze. She is a food scientist from Australia and her website is also from Australia. Her main page can be found at: [https://www.howtocookthat.net/public\\_html/about-howtocookthat-net/](https://www.howtocookthat.net/public_html/about-howtocookthat-net/)

Applicant has tried to explain this as part of the last answer, but the Office maintains as part of the rejection that this site is relevant. Not only is Ms. Reardon’s personal page said to be relevant, but the Examiner has use this single entry as three sites. When Applicant searched on Ms. Reardon’s website for the recipe, it was renamed Chocolate Mirror Glaze and also gave two alternative wordings to “Chocolate Glacage [glassage]”. (See below).



Home Shop Cakes & Frosting Chocolate Desserts Macarons & More

## Chocolate Glacage [glassage]/ Chocolate Mirror Glaze

☒ chocolate glacage glaze mirror glaze finish

(recipe here)- covered in chocolate glacage – yes it was delicious!

The glacage needs to be made at least the day before you need it, but you can store it in the fridge for up to a couple of weeks. The item you are covering should be frozen for glazing and then defrosted.

[www.howtocookthat.net/public\\_html/chocolate-glacage-glassage-chocolate-mirror-glaze/](http://www.howtocookthat.net/public_html/chocolate-glacage-glassage-chocolate-mirror-glaze/)

Even Ms. Reardon does not use Glacage without providing a different spelling. Applicant is unclear why the use by an Australia cook to describe a recipe is not relevant to a determination of genericness in the United States.

### Website # 3: Canada

Applicant continued the review of the newly sited sites. This time a blog was offered of a work-at-home mother, residing in Calgary, Alberta, in Canada. Back in 2011, she use the mark once for one recipe. Her profile can be found at:

About me	
Gender	Female
Industry	Marketing
Occupation	Work-at-Home
Location	Calgary, Alberta, Canada
Introduction	Environmentalism, Work-at-Home Mom
Interests	Baking, Internet Marketing, Affiliate Marketing, Real Estate Investing, Cake decorating, Financial Services
Favorite Movies	Up
Favorite Music	Billionaire
Favorite Books	Chicken Soup for the Soul

[www.blogger.com/profile/04570553193404919310](http://www.blogger.com/profile/04570553193404919310)

It is difficult to imagine why a Canadian home cook, who blogged back in 2011 a single recipe would be relevant as to how the American customer will perceive this mark. Canada is a bilingual nation

with one French speaking province. Any conclusion or use north of the border on how a French word is used and understood should be ignored. For this reason, this site is irrelevant to this analysis and should be dismissed as evidence from this list.

#### **Website # 6: Ireland**

Surfing to the site #6 reveals that this is the Irish cooking academy. Once again, the Examiner tries to rely on foreign use as relevant evidence in the United States.



[www.cooksacademy.com](http://www.cooksacademy.com)

#### **Website # 11: Australia**

The Examiner has already established that a lady from Australia, named Ann Reardon uses the Americanized expression CHOCOLATE GLACAGE. This latest website is the famous MasterChef Australia site. (See below). The use of the mark in Australia is inconsequential to the prosecution of a mark in the United States and to helping this Board conclude that in the United States, the term is generic. Any conclusion relating to the use in a different country should be ignored.





Tenplay.com.au

The URL of this site is “.AU” and not even simply “.COM” As part of the Office’s routine evidence gathering on search engines, non US URL’s should be discarded.

#### Website # 12: Australia

A young colourful couple named Levan & Amrita live in Melbourne and originally were trained in London host a blog. A portion of the blog explaining who is this couple is reproduced below:



[www.mywifemakes.com/about/](http://www.mywifemakes.com/about/)

The fact that some people in Melbourne use CHOCOLATE GLACAGE on one recipe is once again inconsequential to the current analysis.

#### Website # 15: Japan



This is Evan's blog. She is a Japanese who speaks Korean and English. She has a passion for French and Japanese pastries and desserts. She has another blog at Evan's Kitchen Ramblings. The Examiner cited one of the 50 recipes archives from December 2012 which used the expression chocolate glacage used as part of the Chocolate Banana Yule Log.



<http://bossacafez.blogspot.com/>

The fact that one blogger in Japan, with a nice mastery of English used the expression chocolate glacage in 2012 on one of her recipes is hardly evidence of generic use of the term in the United States. The use of the mark in Japan is inconsequential to the prosecution of a mark in the United States. For this reason, this site is irrelevant to this analysis and should be dismissed as evidence from this list.

#### **Website #16: Use in Canada**

The second to last listing is "amazingcakes.ca" The use of CA as a TLD indicates the page rests on a server in Canada and is used by Canadians. This website is the personal website of Kate who runs a small home based cake business in Richmond British Columbia, Canada. The website is: <http://amazingcakes.ca/about-me/>

The use of the mark in Canada is inconsequential to the prosecution of a mark in the United States. For this reason, this site is irrelevant to this analysis and should be dismissed as evidence from this list.

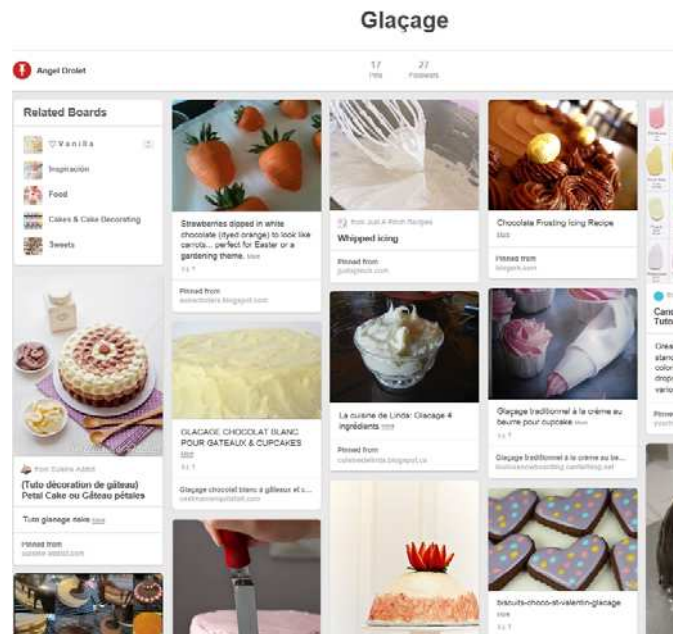
#### **Over than Half of the Reference are Foreign**

Applicant's quick overview of the 18 cited reference shows at a glance that more than half can easily be attached to a foreign resident. The use in Japan, Kuwait, Australia, Ireland, and Canada of the mark is not relevant evidence and should be discarded. When 50% of the references (9 out of 18) related to what one blogger does in Australia, what a person in Japan thinks, this should be a red flag that the search engine is being misused to reach a conclusion.

### **The Remaining References**

#### **Website #5: The Word Glacage on Pinterest.com**

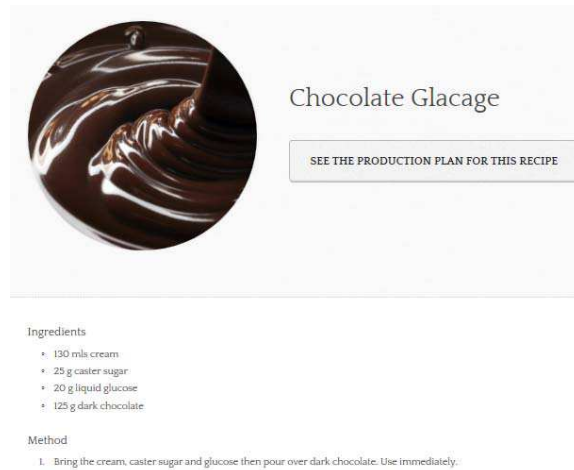
The website Pinterest is like a big index where each word, each concept is given a page with links displayed dynamically. On the Pinterest page, each link refers to a different website. To say that Pinterest shows evidence of use of any word by itself is improper.



The one use (middle white) is in French and is for GLACAGE CHOCOLAT BLANC POUR GATEAUX & CUPCAKES.” When translated in English, this means “white chocolate icing for cakes and cupcakes. Once again, the language here is partly french and therefore cannot be evidence of use in the United States.

#### **Website #7: Sarah's Pure Decadence Folio**

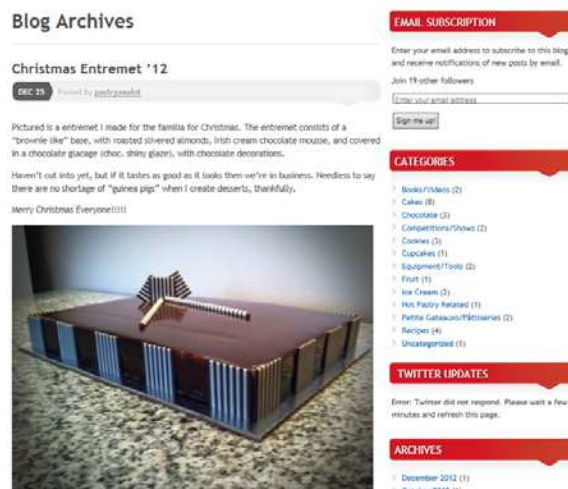
This website also suggests a foreign site. The ingredients are given in grams and millilitres are written as “mls” which is uncommon in the United States. This site is reproduced below:



It is difficult to conceive why this use would constitute evidence of generic use of CHOCOLATE GLACAGE.

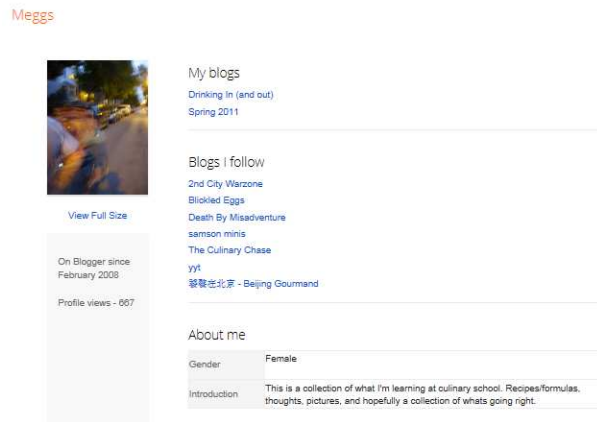
#### Website #9: Having to Explain the Term

Back in 2012, Mr. “Pastryzealot” blogged about a cake he prepared for xmas. He wrote “... and covered in a chocolate glacage (choc. shiny glaze), with chocolate decorations.” Even Mr. ‘zealot’ felt that his readers would not understand the word glacage and found it necessary to give a description of what the foreign word meant. Clearly, this site (if even American) can be used to show glacage is not descriptive or generic for goods as it requires translation and description to readers.



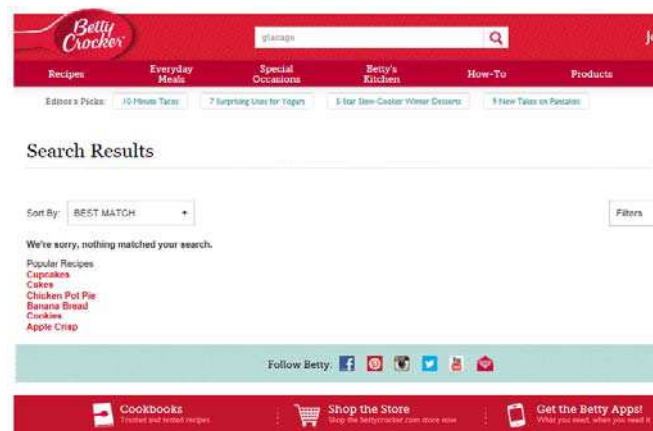
### Website #10: Yet Another Blog

Once again, a single blog entry, from 2011 from someone called “meggs.” When the blogger personal information is looked at, we once again see someone with ties in Asia (having worked at Beijing Gourmand.



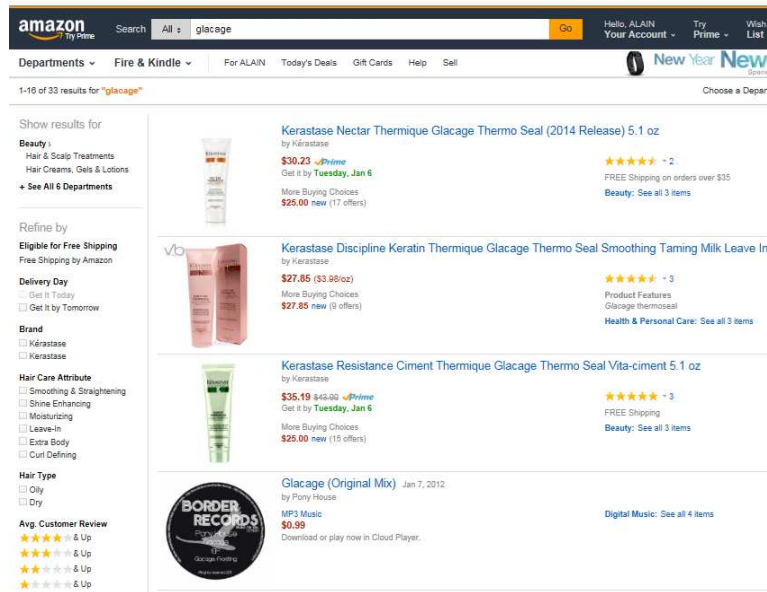
### Said Differently:

The Examiner at best makes a case to that in rare cases, bloggers from Australia, who publish hundreds of recipes, use the term chocolate glacage once on their site. Applicant looked at relevant sites when Icing is found. For example, the website “bettycrocker.com” does not use the word GLACAGE.



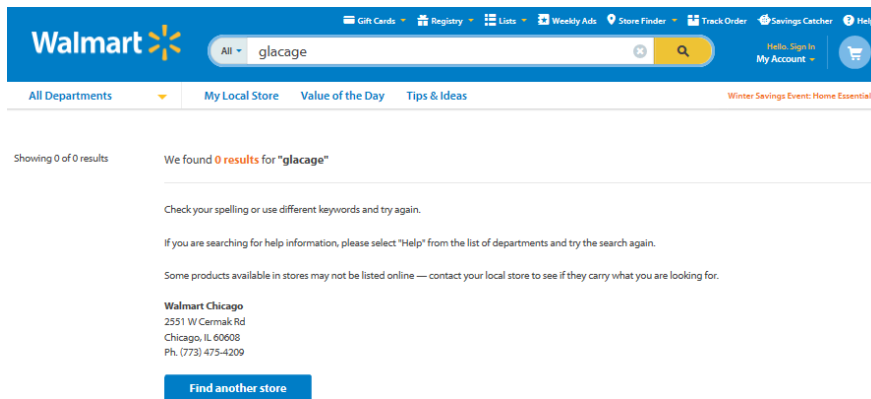
### Bettycrocker.com

Then Applicant looked at Amazon.com and found the use for hair and beauty products and music, not for any food. (See below).



Amazon.com

Finally, Applicant looked at the website of the largest food retailer in the United States, namely Walmart. Indexing “glacage” also returned no hit.



Walmart.com

Applicant simply does not understand how a word that is not in use on either Amazon, Walmart, or BettyCrocker (i.e. the largest icing manufacturer) would somehow be generic.

## CONCLUSION

As a matter of law, the doctrine of foreign equivalent is not available for composite marks where one word is French and the other English. Further, the doctrine of equivalence is only applied when words

of foreign origin are immediately translated in the mind of potential consumers. The word glacage is rare and clearly is not translated by consumers. No evidence was entered to show otherwise. Since the mark is weak and not really in use, the Examiner indexed the words and was left with very small and inconsequential websites mostly of foreign origin. The prima facie case of rejection shows, at the most that some people in Australia like to use Chocolate Glacage for a chocolate glaze.

When a proposed mark is refused registration as generic, the Trademark Attorney has the burden of proving genericness by "clear evidence" thereof. See *In re Hotels.com*, 573 F.3d 1300, 91 USPQ2d 1532, 1533 (Fed. Cir. 2009); *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111 (Fed. Cir. 1987). Evidence must include proof that the relevant public (i.e. buyers of icing who speak French) primarily use or understand the term sought to be registered as the goods in question. No such evidence is offered by the Examiner.

One year ago, this Board has refused to apply the doctrine of foreign equivalent to BOURGOGNE DES FLANDRES for beers (Serial No. 85/501,340). In that case, the evidence given by the Examiner was much more detailed. The Federal Circuit in 1986 in *H. Marvin Ginn Corp. v. International Association of Fire Chiefs Inc.*, 782 F.2d 987, 989-90, 228 USPQ 528, 530 wrote: "There is no dispute that "the burden of showing that a proposed trademark is generic remains with the Patent and Trademark Office," and that this burden of proof must be satisfied with "clear evidence of generic use." *In re Merrill Lynch*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (CAFC 1987). The Examiner offered evidence showing that someone in Kuwait, Canada, Ireland, Japan and in Australia uses some version of GLACAGE or GLASSAGE. No evidence provided suggests that in the United States this term is known.

That fact that in the last century, aside from Applicant, only one other party has every asked for protection of the term GLAÇAGE. U.S. Registration No. 3,003,456 issued for MIRACLE GLAÇAGE for preservative preparation that forms a protective coating on food in Class 001. The mark was issued and worked until it was cancelled in 2012.

The burden is placed on the Office to reject this mark and prove by clear and convincing evidence. Applicant has now had to file 4 separate responses and a 5th was coming unless it appealed. Nothing in this record suggests that Americans or a portion of the public would see CHOCOLATE GLAÇAGE as the mark CHOCOLATE ICING. For at least these reasons, Appellant is entitled to trademark protection and the Examiner's rejection must be reversed. The standard It is difficult to imagine better evidence to prove that CHOCOLATE GLAÇAGE is not in use in any significant way in the United States. Surely the evidence does not support a finding that "the relevant public would understand this designation to refer primarily to that genus of chocolate icing and chocolate glazes because the wording in the mark, in both English and French generically refer to the applicant's goods." Office Action, 7/16/2014.

Respectfully submitted,

Dated: October 23, 2015

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Alain Villeneuve

# **EXHIBIT A**





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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
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2	86256664		CHOCOLATE GLAÇAGE	TSDR	LIVE
3	76605200	3003456	MIRACLE GLAÇAGE	TSDR	DEAD

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# **EXHIBIT B**


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2	86370168		VEUVE AUBERT	TSDR	LIVE
3	85507891	4260381	LA VEUVE	TSDR	LIVE
4	85094100		VEUVE LECAILLON	TSDR	DEAD
5	79004619	3051024	VVE. MONSIGNY	TSDR	DEAD
6	79134379	4527572	VEUVE AMBAL	TSDR	LIVE
7	79124603	4449532	VCP VEUVE CLICQUOT VEUVE CLICQUOT VCP VEUVE CLICQUOT VVE CLICQUOT PONSARDIN	TSDR	LIVE
8	79103580	4426994	VCP VEUVE CLICQUOT FRIDGE	TSDR	LIVE
9	79100203	4127439	VEUVE MOISANS	TSDR	LIVE
10	79098949	4110765	VCP	TSDR	LIVE
11	79098612	4113595	VVE CLICQUOT PONSARDIN	TSDR	LIVE
12	79086204		VEUVE CLICQUOT CLEMENTINI	TSDR	DEAD
13	79050490	3570243	DEVAUX VEUVE A.DEVAUX	TSDR	LIVE
14	79049667	3583554	D DE DEVAUX	TSDR	LIVE
15	77651517	3929067	VCP VEUVE CLICQUOT PONSARDIN VEUVE CLICQUOT PONSARDIN	TSDR	LIVE
16	77621079		VCP VEUVE CLICQUOT PONSARDIN MAISON FONDEE EN 1772	TSDR	DEAD
17	77621055		VEUVE CLICQUOT	TSDR	DEAD
18	77447629		VCP VEUVE CLICQUOT PONSARDIN	TSDR	DEAD
19	76565489	2895039	VEUVE CLICQUOT PONSARDIN VCP	TSDR	LIVE
20	76415907	2774819	V.VE PASQUINET	TSDR	LIVE
21	75872786		VEUVE OUDINOT	TSDR	DEAD
22	75733613	2333257	VEUVE CLICQUOT	TSDR	LIVE
23	75649051	2432192	VEUVE CLICQUOT	TSDR	LIVE
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31	74107665	1754597	VEUVE CLICQUOT PONSARDIN	TSDR	DEAD
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33	73273292	1201370	VEUVE CLICQUOT PONSARDIN	TSDR	LIVE
34	72410061	0974666	VEUVE GALIEN	TSDR	DEAD
35	71345891	0312902	POMMERY & GRENO CHAMPAGNE VEUVE POMMERY REIMS DRAPEAU FRANCE	TSDR	DEAD
36	71148005	0151004	V.CLICQUOT.P. WERLE VEUVE CLICQUOT PONSARDIN CHAMPAGNE REIMS FRANCE	TSDR	DEAD
37	71148004	0152544	VCP WERLE VEUVE CLICQUOT-P. DRY	TSDR	DEAD
38	81030220	1030220	VEUVE DU VERNAY	TSDR	DEAD

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