



06-27-2002

U.S. Patent & TMOfo/TM Mail Rcpt Ct. #11

Ref. No.23224.00

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

-----X
 In re Application of :
 Emeril's Food of Love Productions, :
 LLC :
 Serial No.: 76/052919 :
 Filed: May 18, 2000 :
 For Mark: NOLA :
 -----X

**EX PARTE APPEAL FROM
 EXAMINER OF TRADEMARKS and
 REQUEST FOR SUSPENSION and
 REQUEST FOR REMAND TO EXAMINER
 FOR RECONSIDERATION**

TRADEMARK TRIAL AND
 APPEAL BOARD
 02 JUL 15 AM 12:43

Assistant Commissioner for Trademarks
 Box TTAB FEE
 2900 Crystal Drive
 Arlington, VA 22202-3513

Sir:

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision of the Examiner of Trademarks dated December 26, 2001 refusing registration.

This notice of appeal is accompanied by a copy of Applicant's Response, filed June 24, 2002, to the Examining Attorney's Office Action of December 26, 2001. Applicant respectfully requests that this appeal be suspended and that the case be remanded to the Examining Attorney for further examination and consideration of Applicant's Response.

07/11/2002 KGIBB0:HS 00000170 76052919

01 FC:378

100.00 OP

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202 on

6/24/02 CLAUDIA TAVAND
 (Date of Deposit) (Print name)
Claudia Tavand
 (Signature)

Docket No. 23224.00

Mark: NOLA

Serial No.: 76/052919

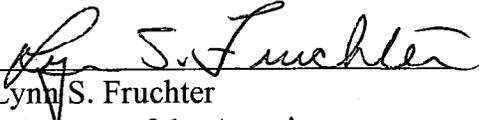
Applicant encloses herewith a check for \$100 in payment of the prescribed appeal fee.

Dated: New York, New York
June 24, 2002

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys For Applicant

By:


Lynn S. Fruchter

1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200

cc: Patricia L. Judd, Esq., Trademark Attorney, Law Office 108

DOCKET 23224.00

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
EMERIL'S FOOD OF LOVE PRODUCTIONS, LLC	:	REQUEST FOR RECONSIDERATION IN RESPONSE TO OFFICE ACTION DATED DECEMBER 26, 2001
Serial No. 76/052919	:	
Filed May 18, 2000	:	
For Mark : NOLA	:	

BOX RESPONSES - NO FEE
 Assistant Commissioner for Trademarks
 2900 Crystal Drive
 Arlington, VA 22202-3512

Attention: Patricia L. Judd, Trademark Attorney, Law Office 108

This Request for Reconsideration responds to the FINAL refusal made in the Office action mailed on December 26, 2001 in connection with the above identified trademark application.

Applicant respectfully requests reconsideration of the refusal to register Applicant's mark on the ground that Applicant's mark too closely resembles the mark in U.S. Registration No. 1943050. A Section 8 affidavit was due for such registration by December 19, 2001. Even had the registrant availed itself of the six month grace period provided for filing Section 8 affidavits, the affidavit would have been due by June 19, 2002. As of June 19, 2002, there was no indication in the official file or the PTO's automated status system

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6/24/02 CLAUDIA TAVAND
 (Date of Deposit) (Print name)
 Claudia Tavand
 (Signature)

that a Section 8 Affidavit had been filed. Additionally, the PTO's Finance Section indicated on June 19, 2002 that no fee had been posted for the filing of such an affidavit. Therefore, it appears that the cited registration is no longer valid, should be cancelled in the near future, and should not constitute a bar to Applicant's mark. Accordingly, Applicant requests that its application be suspended until such cancellation is recorded and that the Section 2(d) refusal then be withdrawn.

With regard to the Trademark Attorney's objection that the mark is primarily geographically descriptive, although Applicant does not concede the correctness of such position, in light of the final refusal on the grounds of descriptiveness, Applicant requests that once the Section 2(d) refusal is withdrawn and the application removed from suspense, its application be amended to the Supplemental Register.

Dated: New York, New York
June 24, 2002

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 

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June 24, 2002

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
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Re: Emeril's Food of Love Productions, LLC
Mark: NOLA: Ser. No 76/052919
Attorney Ref. No. 23224

TRADEMARK TRIAL AND
APPEAL BOARD
02 JUL 15 AM 12:43

Dear Sir:

We attach the following:

1. Ex Parte Appeal
2. Check to cover appeal fee

If the enclosed check is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Kindly acknowledge receipt of the appeal by returning the attached post card.

Please address all communications, either by mail or telephone, to the undersigned.

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Applicant

By: 
Lynn/S. Fruchter

Enclosure

KG