

ESTTA Tracking number: **ESTTA535046**

Filing date: **04/29/2013**

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

**Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

**Opposers Information**

Name	John Zidian Co., Inc.		
Entity	Corporation	Citizenship	Ohio
Address	492 McClurg Rd. Boardman, OH 44512 UNITED STATES		

Name	Zidian Import, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	492 McClurg Rd. Boardman, OH 44512 UNITED STATES		

Attorney information	Edward T. Saadi, Esq. EDWARD T. SAADI, LLC 970 Windham Court Suite 7 Boardman, OH 44512 UNITED STATES EdwardSaadi@aol.com Phone:330-782-1954		
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**Applicant Information**

Application No	79091523	Publication date	04/09/2013
Opposition Filing Date	04/29/2013	Opposition Period Ends	05/09/2013
International Registration No.	0912377	International Registration Date	11/29/2006
Applicant	GIA S.P.A. Via dell'Artigianato, 15 I-44047 Sant'Agostino (FE)  ITALY		

**Goods/Services Affected by Opposition**

Class 029. All goods and services in the class are opposed, namely: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products excluding ice cream; edible oils and fats
Class 030. All goods and services in the class are opposed, namely: Coffee, tea, cocoa, sugar, sago, artificial coffee; confectionery, namely, frozen confections, edible ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2813177	Application Date	03/27/2003
Registration Date	02/10/2004	Foreign Priority Date	NONE
Word Mark	GIA RUSSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1998/11/00 First Use In Commerce: 1998/11/00 Alimentary pastes, pasta, tomato sauces, vinegar, noodles, and bread crumbs		

U.S. Registration No.	3212467	Application Date	08/29/2005
Registration Date	02/27/2007	Foreign Priority Date	NONE
Word Mark	GIA RUSSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1998/11/01 First Use In Commerce: 1998/11/01 Meatballs, processed artichokes, processed artichoke hearts, processed beans, processed olives, processed mushrooms, processed peppers, processed onions, processed pepperoncini, giardiniera, processed hearts of palm, processed garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable salads, stuffed vine leaves, canned processed tomatoes, processed eggplant, processed zucchini, bruschetta toppings, and gift baskets containing a mix of the aforementioned goods</p> <p>Class 030. First use: First Use: 1998/11/01 First Use In Commerce: 1998/11/01 Alimentary paste, pasta, stuffed ravioli, stuffed rigatoni, stuffed pasta shells, cavatelli, tortellini, pasta sauces, tomato sauces, vinegar, noodles, bread crumbs, balsamic glaze, bread, sloppy joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix of the aforementioned goods</p>		

U.S. Registration No.	3212469	Application Date	08/29/2005
Registration Date	02/27/2007	Foreign Priority Date	NONE
Word Mark	GIA RUSSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1998/11/01 First Use In Commerce: 1998/11/01 Meatballs, processed artichokes, processed artichoke hearts, processed beans, processed olives, processed mushrooms, processed peppers, processed onions, processed pepperoncini, giardiniera, processed hearts of palm, processed garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable salads, stuffed vine leaves, canned processed tomatoes, processed eggplant, processed zucchini, bruschetta toppings, and gift baskets containing a</p>		

	mix of the aforementioned goods Class 030. First use: First Use: 1998/11/01 First Use In Commerce: 1998/11/01 Alimentary paste, pasta, stuffed ravioli, stuffed rigatoni, stuffed pasta shells, cavatelli, tortellini, pasta sauces, tomato sauces, vinegar, noodles, bread crumbs, balsamic glaze, bread, sloppy joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix of the aforementioned goods
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U.S. Application No.	77954946	Application Date	03/09/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: Wines		

U.S. Registration No.	3764808	Application Date	12/03/2008
Registration Date	03/23/2010	Foreign Priority Date	NONE
Word Mark	GIA RUSSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2009/08/21 First Use In Commerce: 2009/11/20 Wine		

U.S. Registration No.	2306277	Application Date	03/02/1999
Registration Date	01/04/2000	Foreign Priority Date	NONE
Word Mark	GIA RUSSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1998/11/00 First Use In Commerce: 1998/11/00 Alimentary pastes		

Attachments	Opposition.pdf(247252 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/edward saadi/
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Name	Edward T. Saadi, Esq.
Date	04/29/2013

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

3 John Zidian Co., Inc. )

4 and )

5 Zidian Import, Inc., )

6 Opposers, )

7 vs. )

8 GIA S.P.A., )

9 Applicant. )

**NOTICE OF OPPOSITION**

Opposition No.:



Mark:

Ser. No.: 79/091,523

Filed: December 7, 2010

Published: April 9, 2013

10 John Zidian Co., Inc. ("Zidian Co."), a corporation organized and existing under the laws  
 11 of the State of Ohio, having a principal place of business at 492 McClurg Road, Boardman, Ohio  
 12 44512, and Zidian Import, Inc. ("Zidian Import"), a corporation organized and existing under the  
 13 laws of the State of Ohio, having a principal place of business at 492 McClurg Road, Boardman,  
 14 Ohio 44512 (collectively "Opposers"), believe that they are being and will be damaged by the

15 registration of the mark  shown in Application Serial No. 79/091,523 (the  
 16 "Application") and hereby oppose the same. As grounds for their opposition, Opposers alleges  
 17 that, upon actual knowledge with respect to itself and its own acts, and upon information and  
 18 belief as to other matters:  
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21 Opposers and their GIA RUSSA, , , and GIA Marks

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 23  
 24 1. Zidian Co. is a corporation organized and existing under the laws of the State of  
 25 Ohio, having a principal place of business at 492 McClurg Road, Boardman, Ohio 44512.

1           2. Zidian Import is a corporation organized and existing under the laws of the State  
2 of Ohio, having a principal place of business at 492 McClurg Road, Boardman, Ohio 44512.

3           3. Since at least as early as November 1998, Zidian Co., itself, or though its  
4 predecessors, related companies, and licensees (collectively "Zidian Co."), has used the mark  
5 "GIA RUSSA" in commerce in connection with the following goods:

6  
7           Alimentary pastes, pasta, tomato sauces, vinegar, noodles, bread crumbs,  
8 meatballs, processed artichokes, processed artichoke hearts, processed beans,  
9 processed olives, processed mushrooms, processed peppers, processed onions,  
10 processed pepperoncini, giardiniera, processed hearts of palm, processed  
11 garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable  
12 salads, stuffed vine leaves, canned processed tomatoes, processed eggplant,  
13 processed zucchini, bruschetta toppings, stuffed ravioli, stuffed rigatoni,  
14 stuffed pasta shells, cavatelli, tortellini, pasta sauces, balsamic glaze, bread,  
15 sloppy joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix  
16 of the aforementioned goods.

17           4. Since at least as early as August 21, 2009, Zidian Co. has used the mark "GIA  
18 RUSSA" in commerce in connection with wines.

19           5. Since at least as early as November 1998, Zidian Co. has used the mark



in commerce in connection with the following goods:

26           Meatballs, processed artichokes, processed artichoke hearts, processed beans,  
27 processed olives, processed mushrooms, processed peppers, processed onions,  
28 processed pepperoncini, giardiniera, processed hearts of palm, processed  
29 garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable  
30 salads, stuffed vine leaves, canned processed tomatoes, processed eggplant,  
31 processed zucchini, bruschetta toppings, alimentary paste, pasta, stuffed  
32 ravioli, stuffed rigatoni, stuffed pasta shells, cavatelli, tortellini, pasta sauces,  
33 tomato sauces, vinegar, noodles, bread crumbs, balsamic glaze, bread, sloppy  
34 joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix of the  
35 aforementioned goods.

6. Since at least as early as November 1998, Zidian Co. has used the mark



(lined for the color blue) in commerce in connection with alimentary pastes.

7. Further, Zidian Co. is the owner of the following valid and subsisting United



States trademark registrations for the **GIA RUSSA**, and marks

(certificates of registration are attached hereto as Exhibit A):

<u>Mark</u>	<u>Reg. No.</u> <u>Reg. Date</u>	<u>Date of First Use</u> <u>Date of First Use in</u> <u>Commerce</u>	<u>Goods</u>
<b>GIA RUSSA</b>	2,813,177 Feb. 10, 2004	November, 1998 November, 1998	Alimentary pastes, pasta, tomato sauces, vinegar, noodles, and bread crumbs.
<b>GIA RUSSA</b>	3,212,467 Feb. 27, 2007	November, 1998 November, 1998	Meatballs, processed artichokes, processed artichoke hearts, processed beans, processed olives, processed mushrooms, processed peppers, processed onions, processed pepperoncini, giardiniera, processed hearts of palm, processed garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable salads, stuffed vine leaves, canned processed tomatoes, processed eggplant, processed zucchini, bruschetta toppings, and gift baskets containing a mix of the aforementioned goods.  Alimentary paste, pasta, stuffed ravioli, stuffed rigatoni, stuffed pasta shells, cavatelli, tortellini, pasta sauces, tomato sauces, vinegar, noodles, bread crumbs, balsamic glaze, bread, sloppy joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix of the aforementioned goods.
<b>GIA RUSSA</b>	3,764,808 March 23, 2010	August 21, 2009 November 20, 2009	Wine.

<u>Mark</u>	<u>Reg. No.</u> <u>Reg. Date</u>	<u>Date of First Use</u> <u>Date of First Use in</u> <u>Commerce</u>	<u>Goods</u>
	3,212,469  Feb. 27, 2007	November 1998  November 1998	Meatballs, processed artichokes, processed artichoke hearts, processed beans, processed olives, processed mushrooms, processed peppers, processed onions, processed pepperoncini, giardiniera, processed hearts of palm, processed garlic, olive oil, vegetable oil, corn oil, cheese, broth, soup, fruit and vegetable salads, stuffed vine leaves, canned processed tomatoes, processed eggplant, processed zucchini, bruschetta toppings, and gift baskets containing a mix of the aforementioned goods.  Alimentary paste, pasta, stuffed ravioli, stuffed rigatoni, stuffed pasta shells, cavatelli, tortellini, pasta sauces, tomato sauces, vinegar, noodles, bread crumbs, balsamic glaze, bread, sloppy joe sauce, gnocchi, polenta, spaetzle, and gift baskets containing a mix of the aforementioned goods.
	2,306,277  January 4, 2000	November, 1998  November, 1998	Alimentary pastes

8. Zidian Import is the applicant in a pending trademark application with the U.S. Patent and Trademark Office for the mark **GIA** for use in connection with wines, filed March 9, 2010 (having Serial No. 77/954,946).

**APPLICANT'S APPLICATION**

9. Applicant, GIA, S.P.A., an Italian company, has an address of Via dell'Artigianato, 15, I-44047 Sant'Agostino (FE), Italy.

10. On December 7, 2010, Applicant filed Application Serial No. 79/091,523 for the

mark  , as a subsequent designation through the Madrid Protocol, for use in connection with the following goods:

1 Meat, fish, poultry and game; meat extracts; preserved, dried and cooked  
2 fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products  
3 excluding ice cream; edible oils and fats; coffee, tea, cocoa, sugar, sago,  
4 artificial coffee; confectionery, namely, frozen confections, edible ices; honey,  
5 treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments);  
6 spices; ice.

7 **LIKELIHOOD OF CONFUSION**

8 11. Opposers repeat and reallege each and every allegation set forth in Paragraphs 1  
9 through 10.

10 12. Zidian Co. has priority based on its prior valid and subsisting registrations for

11  , and  . Further, Zidian Co. has used its GIA  
12 GIA RUSSA,

13  , and  marks in commerce prior to the filing date of  
14 RUSSA,  
15 the opposed Application Serial No. 79/091,523.

16 13. Zidian Import has priority because the filing date for its pending application for  
17 GIA, which is March 9, 2010, predates Applicant's filing date of December 10, 2010.

18 14. Applicant's  mark is substantially similar in sound, appearance,  
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21 meaning, and overall commercial impression to Opposers' GIA RUSSA,  ,  
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3 , and GIA marks. Further, Applicant's goods are identical or closely related to



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7 the goods offered in connection with Opposers' GIA RUSSA,  
8 and GIA marks and covered by Zidian Co.'s valid and subsisting registrations and/or Zidian  
9 Import's prior pending application.

10  
11 15. Applicant's  mark so resembles Zidian Co.'s previously used and



12  
13  
14 registered GIA RUSSA, ,  
15 marks as to be likely, when applied  
16 to the identified goods, to cause confusion, or to cause mistake, or to deceive, all in violation of  
17 Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

18  
19 16. Applicant's  mark so resembles Zidian Import's previously applied-for  
20 GIA mark as to be likely, when applied to the identified goods, to cause confusion, or to cause  
21 mistake, or to deceive, all in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

22 17. Still further, any negative opinions, objections, violations of Food and Drug  
23 labeling laws and regulations, or quality issues found with any of Applicant's products under the  
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designation will injure the valuable reputation and goodwill that Opposers have established for their goods.

WHEREFORE, Opposers believe that they are being and will continue to be damaged by



the mark shown in Application Serial No. 79/091,523, and requests that the Notice of Opposition be sustained, and that the application for registration be refused.

Dated: April 29, 2013

By: 

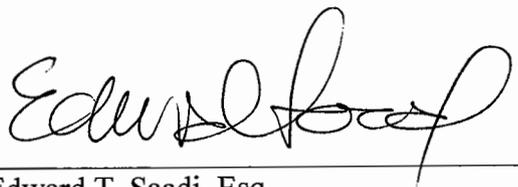
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(330) 266-7489 (fax)  
EdwardSaadi@aol.com  
*Attorney for Opposers John Zidian Co., Inc., and  
Zidian Import, Inc.*

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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing **NOTICE OF OPPOSITION** was served by first class U.S. mail, postage prepaid, on this 29 day of April, 2013, upon Applicant at the following address:

WILLIAM J. SAPONE, ESQ.  
WARE FRESSOLA MAGUIRE & BARBER, LLP  
755 MAIN STREET  
P.O. BOX 224, BUILDING 5  
MONROE, CONNECTICUT 06468



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Edward T. Saadi, Esq.  
**EDWARD T. SAADI, LLC**  
970 Windham Court, Suite 7  
Boardman, OH 44512  
(330) 782-1954  
(330) 266-7489 (fax)  
EdwardSaadi@aol.com  
*Attorney for Opposers John Zidian Co., Inc., and  
Zidian Import, Inc.*

Int. Cl.: 30

Prior U.S. Cl.: 46

**United States Patent and Trademark Office**

Reg. No. 2,813,177

Registered Feb. 10, 2004

**TRADEMARK  
PRINCIPAL REGISTER**

**GIA RUSSA**

JOHN ZIDIAN COMPANY, INC. (OHIO CORPORATION)  
65 COITSVILLE-HUBBARD ROAD  
YOUNGSTOWN, OH 44505

FOR: ALIMENTARY PASTES, PASTA, TOMATO SAUCES, VINEGAR, NOODLES, AND BREAD CRUMBS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 11-0-1998; IN COMMERCE 11-0-1998.

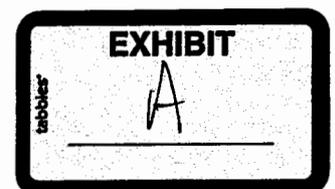
OWNER OF U.S. REG. NO. 2,306,277.

THE NAME "GIA RUSSA" SHOWN IN THE MARK DOES NOT IDENTIFY A PARTICULAR LIVING INDIVIDUAL.

THE ENGLISH TRANSLATION OF THE WORD "GIA RUSSA" IN THE MARK IS "ALREADY RUSSIAN".

SER. NO. 78-230,593, FILED 3-27-2003.

MARC LEIPZIG, EXAMINING ATTORNEY



Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,212,467

Registered Feb. 27, 2007

TRADEMARK  
PRINCIPAL REGISTER

GIA RUSSA

JOHN ZIDIAN CO., INC. (OHIO CORPORATION)  
65 COITSVILLE-HUBBARD RD.  
YOUNGSTOWN, OH 44505

FOR: MEATBALLS, PROCESSED ARTICHOKE, PROCESSED ARTICHOKE HEARTS, PROCESSED BEANS, PROCESSED OLIVES, PROCESSED MUSHROOMS, PROCESSED PEPPERS, PROCESSED ONIONS, PROCESSED PEPPERONCINI, GIARDINIERA, PROCESSED HEARTS OF PALM, PROCESSED GARLIC, OLIVE OIL, VEGETABLE OIL, CORN OIL, CHEESE, BROTH, SOUP, FRUIT AND VEGETABLE SALADS, STUFFED VINE LEAVES, CANNED PROCESSED TOMATOES, PROCESSED EGGPLANT, PROCESSED ZUCCHINI, BRUSCHETTA TOPPINGS, AND GIFT BASKETS CONTAINING A MIX OF THE AFOREMENTIONED GOODS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 11-1-1998; IN COMMERCE 11-1-1998.

FOR: ALIMENTARY PASTE, PASTA, STUFFED RAVIOLI, STUFFED RIGATONI, STUFFED PASTA SHELLS, CAVATELLI, TORTELLINI, PASTA SAU-

CES, TOMATO SAUCES, VINEGAR, NOODLES, BREAD CRUMBS, BALSAMIC GLAZE, BREAD, SLOPPY JOE SAUCE, GNOCCHI, POLENTA, SPAETZLE, AND GIFT BASKETS CONTAINING A MIX OF THE AFOREMENTIONED GOODS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 11-1-1998; IN COMMERCE 11-1-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,306,277 AND 2,813,177.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS ALREADY RUSSIAN.

SER. NO. 78-702,906, FILED 8-29-2005.

CURTIS FRENCH, EXAMINING ATTORNEY

# United States of America

United States Patent and Trademark Office

## GIA RUSSA

**Reg. No. 3,764,808** JOHN ZIDIAN CO., INC. (OHIO CORPORATION)  
Registered Mar. 23, 2010 492 MCCLURG ROAD  
BOARDMAN, OH 44512

**Int. Cl.: 33** FOR: WINE, IN CLASS 33 (U.S. CLS. 47 AND 49).

TRADEMARK  
PRINCIPAL REGISTER

FIRST USE 8-21-2009; IN COMMERCE 11-20-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF "GIA RUSSA" IN THE MARK IS "ALREADY RUSSIAN".

SN 77-626,081, FILED 12-3-2008.

SALLY SHIH, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,212,469

Registered Feb. 27, 2007

TRADEMARK  
PRINCIPAL REGISTER



JOHN ZIDIAN CO., INC. (OHIO CORPORATION)  
65 COITSVILLE-HUBBARD RD.  
YOUNGSTOWN, OH 44505

FOR: MEATBALLS, PROCESSED ARTICHOKE HEARTS, PROCESSED BEANS, PROCESSED OLIVES, PROCESSED MUSHROOMS, PROCESSED PEPPERS, PROCESSED ONIONS, PROCESSED PEPPERONCINI, GIARDINIERA, PROCESSED HEARTS OF PALM, PROCESSED GARLIC, OLIVE OIL, VEGETABLE OIL, CORN OIL, CHEESE, BROTH, SOUP, FRUIT AND VEGETABLE SALADS, STUFFED VINE LEAVES, CANNED PROCESSED TOMATOES, PROCESSED EGGPLANT, PROCESSED ZUCCHINI, BRUSCHETTA TOPPINGS, AND GIFT BASKETS CONTAINING A MIX OF THE AFOREMENTIONED GOODS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 11-1-1998; IN COMMERCE 11-1-1998.

FOR: ALIMENTARY PASTE, PASTA, STUFFED RAVIOLI, STUFFED RIGATONI, STUFFED PASTA SHELLS, CAVATELLI, TORTELLINI, PASTA SAUCES, TOMATO SAUCES, VINEGAR, NOODLES, BREAD CRUMBS, BALSAMIC GLAZE, BREAD, SLOPPY JOE SAUCE, GNOCCHI, POLENTA, SPAETZLE, AND GIFT BASKETS CONTAINING A MIX OF THE AFOREMENTIONED GOODS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 11-1-1998; IN COMMERCE 11-1-1998.

OWNER OF U.S. REG. NOS. 2,306,277 AND 2,813,177.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS ALREADY RUSSIAN.

SER. NO. 78-702,930, FILED 8-29-2005.

CURTIS FRENCH, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,306,277

United States Patent and Trademark Office

Registered Jan. 4, 2000

TRADEMARK  
PRINCIPAL REGISTER



JOHN ZIDIAN COMPANY, INC. (OHIO CORPORATION)  
65 COITSVILLE-HUBBARD ROAD  
YOUNGSTOWN, OH 44505

FOR: ALIMENTARY PASTES, IN CLASS 30  
(U.S. CL. 46).  
FIRST USE 11-0-1998; IN COMMERCE  
11-0-1998.

THE DRAWING IS LINED FOR THE COLOR  
BLUE.

THE ENGLISH TRANSLATION OF "GIA  
RUSSA" IS "ALREADY RUSSIAN".

SER. NO. 75-651,898, FILED 3-2-1999.

CHRISTOPHER ADKINS, EXAMINING AT-  
TORNEY