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Sent: 9/4/2014 1:28:46 PM

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Subject: U.S. TRADEMARK APPLICATION NO. 85834185 - MEXICO LINDO - 049321.14 - Request for Reconsideration Denied - Return to TTAB

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Attachment Information:

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Files: Mexico Lindo 4-1.jpg, Mexico Lindo 4-2.jpg, Mexico Lindo 4-3.jpg, Mexico Lindo 3-2.jpg, Mexico Lindo 3-1.jpg, Mexico Lindo 2-4.jpg, Mexico Lindo 2-3.jpg, Mexico Lindo 2-2.jpg, Mexico Lindo 2-1.jpg, Mexico Lindo 4-4.jpg, Mexico Lindo 4-5.jpg, 85834185.doc

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 85834185 **MARK:** MEXICO LINDO	
CORRESPONDENT ADDRESS: DONNA A TOBIN BakerHostetler LLP 45 ROCKEFELLER PLAZA BAKERHOSTETLER LLP NEW YORK, NY 10111	**GENERAL TRADEMARK INFORMATION:** http://www.uspto.gov/trademarks/index.jsp VIEW YOUR APPLICATION FILE
APPLICANT: Huff Hispanic Food Holdings, LLC	
CORRESPONDENT'S REFERENCE/DOCKET NO: 049321.14 **CORRESPONDENT E-MAIL ADDRESS:** dtobin@bakerlaw.com	

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 9/4/2014

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated September 24, 2013, are maintained and continue to be final. *See* TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action.

Applicant argues that the goods differ. However, the attached evidence from Goya and Simply Organic shows that these entities sell dried chilies and tomato paste under the same trademark, and the attached evidence from Alma Gourmet shows these goods being sold in the same trade channels to the same class of consumers. This Internet evidence clearly indicates that applicant's dried chilies and spices are related to registrant's tomato sauces.

In addition, applicant's analysis and arguments regarding its prior registration are not persuasive nor do they shed new light on the issues because the goods in applicant's prior registration are unrelated to registrant's goods. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

/Shaila Lewis/

Trademark Examining Attorney

Law Office 114

(571) 270-1527 (tel.)

(571) 270-2527 (fax.)

shaila.lewis@uspto.gov

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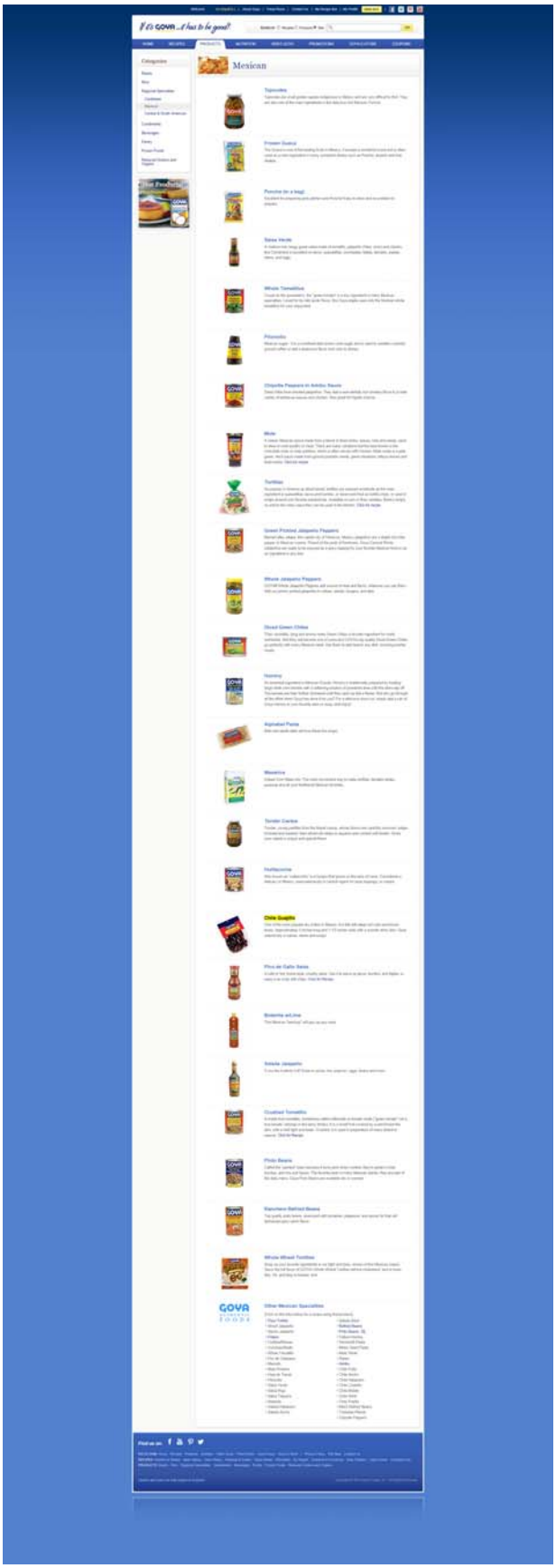
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Tomato

Low Sodium Tomato Sauce

Low Sodium Tomato Sauce offers the same rich, authentic Spanish flavor as the original, with less sodium. Use it in any recipes that call for tomato sauce such as pasta dishes, and winter soups and stews.

Tomato Sauce

Traditional Spanish style all-purpose tomato sauce made with rich tomatoes, peppers, and spices. Recognized for its consistency and multiple uses, it adds a special flavor to your meals. Click for Recipe.

Tomato Paste

Made from concentrated vine-ripened tomatoes, this staple ingredient adds robust tomato tang to any dish. Just a small serving delivers big tomato flavor.

Tomato with Onion, Cilantro & Garlic

Premium tomatoes combined with onion, cilantro and garlic becomes the perfect combination for your favorite meals.

Tomato Hot

A medley of tomatoes and your favorite hot spices brings life to almost any cuisine!

Tomato Products

Cook up delicious recipes in a snap with GOYA's Tomato Products! Diced, whole or crushed, they're ready to add flavor to dishes that crave tomato richness, like pastas, soups, stews and salsas.

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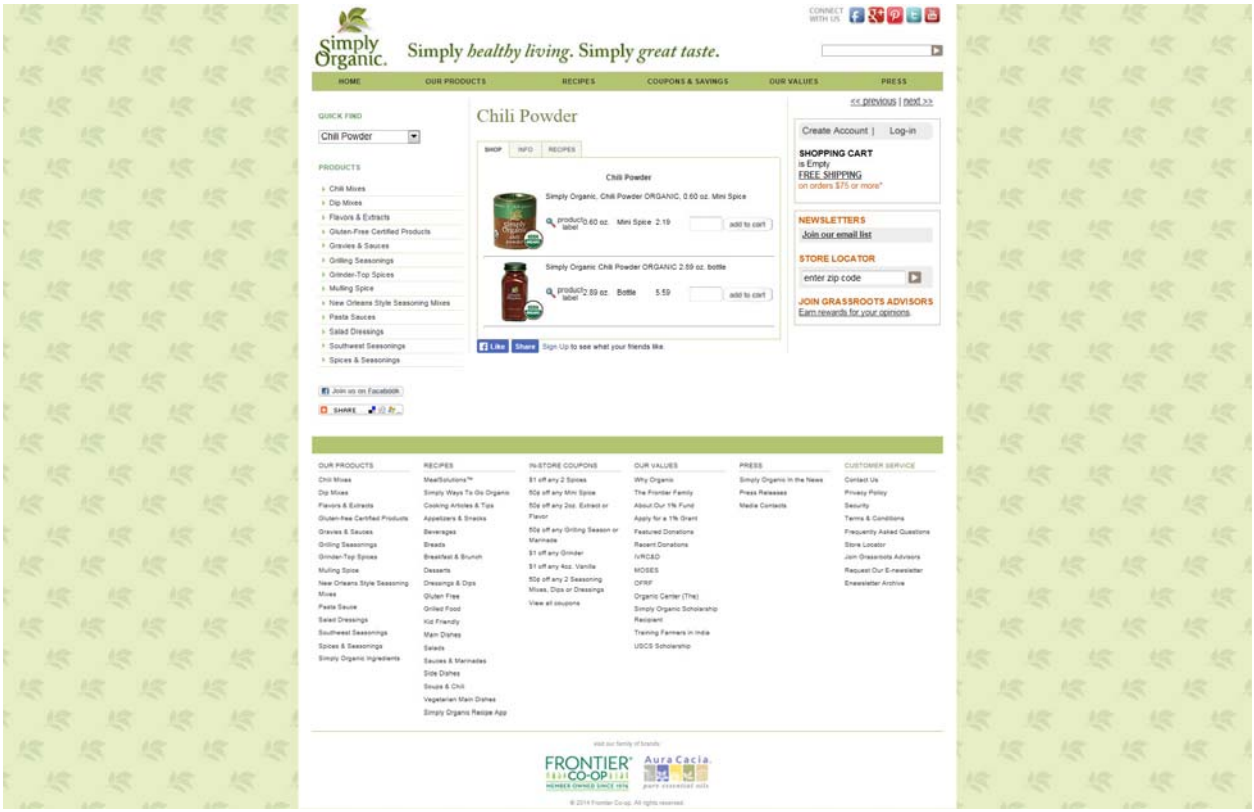
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Simply Organic Garden Vegetable Spaghetti Sauce ORGANIC, Gluten-Free 1.31 oz Packet

Size: 1.31 oz
Price: $1.49
Ingredients: Organic Cornstarch, Organic Maltodextrin, Organic Cane Sugar, Organic Tomato Powder (Organic Tomato Concentrate, Organic Guar Gum), Sea Salt, Organic Carrot, Organic Garlic, Organic Onion, Organic Kibbled Mushrooms, Organic Spinach Flakes, Organic Basil, Silicon Dioxide, Organic Bell Peppers, Citric Acid, Organic Oregano.
Directions: 1. In a medium saucepan, combine one 15 oz. can of diced tomatoes with 1/3 cup water.

2. Mix packet contents with tomatoes and water in saucepan.

3. Heat on medium-high and bring to a low boil. Reduce heat and simmer until desired thickness is reached.

4. Add sauce to freshly prepared pasta.

Makes 4 servings.
Suggested Uses: Substitute 1 can (8 ounces) tomato sauce and ¾ cup water or 1 can (6 ounces) tomato paste and 1 ¼ cups water in placed of diced tomatoes and water.

As a garnish, serve with shaved carrots on top of pasta sauce.

Generously sprinkle with Simply Organic® Italian Seasoning.
Product Notes: A medley of organic vegetables and seasonings for creating the perfect pasta sauce.
Processing Notes: Simply Organic uses ingredients grown and processed without the use of toxic pesticides, irradiation, or genetically engineered products.
Organic: QAI Certified Organic
Kosher: KSA Certified

Nutrition Facts

Serving Size 1 tbsp (8g)
Servings Per Container about 4

Amount Per Serving	
Calories 30	Calories from Fat 0
	% Daily Value*
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 320mg	13%
Total Carbohydrate 7g	2%
Dietary Fiber 1g	4%
Sugars 2g	
Protein 1g	
Vitamin A 10% • Vitamin C 4%	
Calcium 2% • Iron 4%	

* Percent Daily Values are based on a 2,000 calorie diet.

Common Name: Garden Vegetable Spaghetti Sauce
Bar Code: 0-89836-15711-9

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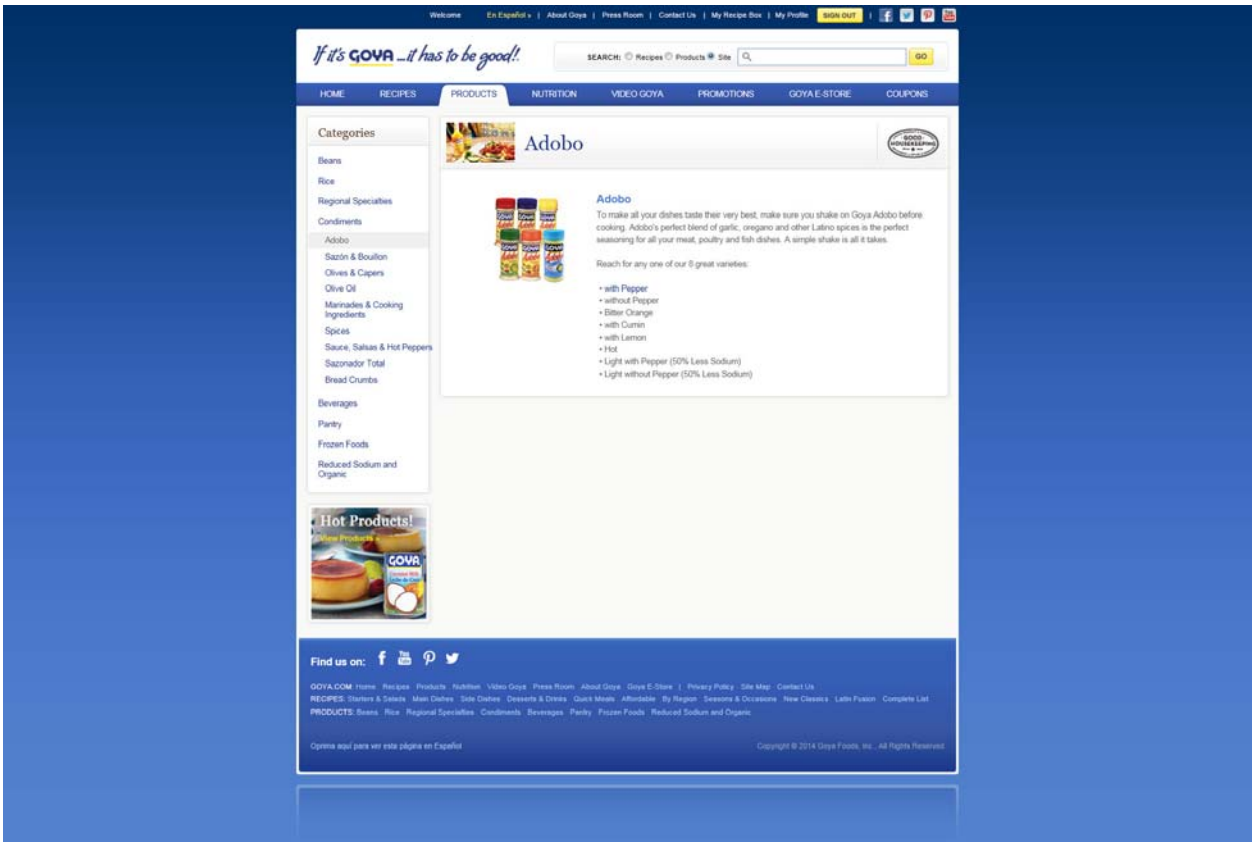
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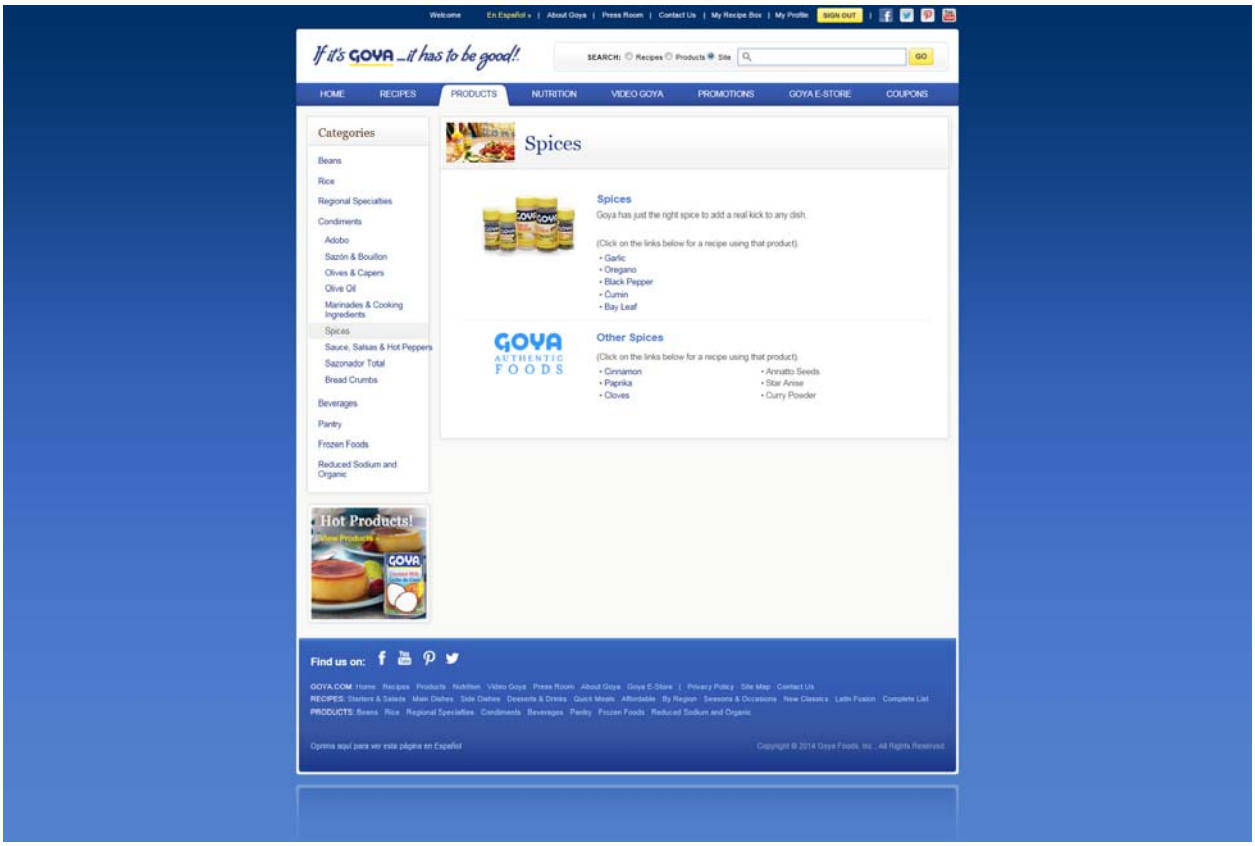
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