

TTAB

Our reference DEN-113

Trademark

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

Application No.: 76 / 328,319

For the mark: COW TRACKS

Date filed: October 19, 2001

(Denali Co., L.L.C., successor in interest to Denali Flavors, L.L.C.)

v.

(Marigold Foods, Inc., a Delaware corporation)



07-19-2002

U.S. Patent & TM Office Mail Receipt #61

TRADEMARK TRIAL AND
APPEAL BOARD
JUL 25 AM 8:33

PETITION TO CANCEL

The Petitioner, Denali Co., L.L.C., successor in interest to Denali Flavors, L.L.C., hereby petitions for cancellation of the mark COW TRACKS, Application Serial No. 76 / 328,319, and in support thereof, states as follows:

1. This Petition to Cancel is brought within five (5) years of the date of publication and registration of the COW TRACKS mark in accordance with 15 U.S.C. § 1064.

2. The Petitioner's principal place of business is located at 4666 Leighton Lakes Drive, Wayland, Michigan 49348.

3. Petitioner is currently the owner of the registered mark, MOOSE TRACKS, Registration Nos. 1,806,802 and 2,303,587. Copies of the Trademark Electronic Search System (TESS) status report for each registration is attached hereto as Exhibits A and B respectively.

07/24/2002 NPETTY
01 FC:376

4. Petitioner is in the business of researching, developing, and licensing the manufacture of a wide range of premium food ingredients, including food flavorings. Some of its most preeminent ingredients, such as those marketed under the MOOSE TRACKS mark, are sold to customers in the dairy industry for use in their ice cream products. Purchasers of the food ingredients typically enter

into a licensing agreement with the Petitioner, which allows the purchaser to produce and market its product using one or more of Petitioner's trade marks.

5. Upon information and belief, Marigold Foods, Inc. ("Merigold Foods"), is the owner of the mark, COW TRACKS, Application Serial No. 76 / 328,319. A copy of the TESS status report is attached hereto as Exhibit C.

6. Upon information and belief, the current address of Marigold Foods is 2929 University Avenue S.E., Minneapolis, Minnesota 55414.

7. Marigold Foods is in business of manufacturing and marketing various dairy products, including ice cream.

8. Marigold Foods is a former licensee of the Petitioner's MOOSE TRACKS mark. In connection with a licensing agreement, Marigold Foods incorporated Petitioner's food ingredients into various ice cream products that were marketed under the MOOSE TRACKS mark. The licensing agreement has since terminated.

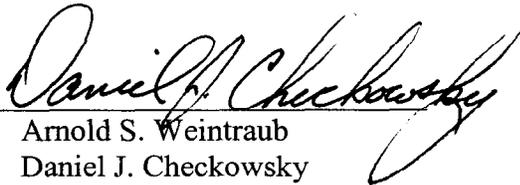
9. Following termination of the licensing agreement between Marigold Foods and the Petitioner, Marigold Foods proceeded to produce and market various ice cream products under the COW TRACKS mark. Upon information and belief, Marigold Foods continues to market its products under the COW TRACKS mark.

10. The COW TRACKS mark is confusingly similar to Petitioner's MOOSE TRACKS mark. Marigold Food's registration and use of the COW TRACKS mark is clearly an attempt to play off the substantial recognition and customer loyalty that has come to be associated with Petitioner's MOOSE TRACKS mark. The COW TRACKS mark is likely to deceive or cause confusion or mistake, thus warranting its cancellation.

11. Petitioner possesses a bona fide belief that it has incurred damages as a result of Marigold Foods registration and use of the COW TRACKS mark, and will continue to incur damages if the COW TRACKS remains on the record as a registered mark of Marigold Foods.

Accordingly, Petitioner, Denali Co., L.L.C., respectfully requests cancellation of the above-noted registration.

DENALI CO., L.L.C., successor in interest to
DENALI FLAVORS, L.L.C

By: 
Arnold S. Weintraub
Daniel J. Checkowsky
Attorneys for Petitioner

Bimfield.10464.83113.375468-1

TTAB
Trademark

Our reference DEN-113

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

Application No.: 76/328,319
For the mark: COW TRACKS
Date filed: October 19, 2001


07-19-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #61

(Denali Co., L.L.C., successor in interest to Denali Favors, L.L.C.)
v.
(Marigold Foods, Inc., a Delaware corporation)

CERTIFICATE OF MAILING AND TRANSMITTAL LETTER

Transmitted herewith is a Petition to Cancel, Check No. 107744 in the amount of \$300.00, Certificate of Mailing and Transmittal Letter, and Self Addressed, Stamped Postcard.

- No additional fee is required
- Our Check in the amount of \$ 300.00 is attached.
- Charge _____ to Deposit Account No. 50-0404.
- Please charge any additional fees or credit overpayment to Deposit Account No. 50-0404.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: United States Patent and Trademark Office, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513 on this 17th day of July, 2002.


Victoria Mendoza

