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Filing date: **05/14/2014**

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

Proceeding	91186148
Party	Defendant The Great Atlantic & Pacific Tea Company, Inc.
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NOTICE OF FILING TRIAL TESTIMONY

Opposition No. 91186148, 91186863

(Consolidated as 91186148)

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

-----X

PUBLIX ASSET MANAGEMENT COMPANY, :

Opposer, : Opposition No. 91186148
Opposition No. 91186863
(Consolidated as 91186148)

v. :
THE GREAT ATLANTIC & PACIFIC TEA :
COMPANY, INC., :

Applicant. :

-----X

NOTICE OF FILING TRIAL TESTIMONY

PLEASE TAKE NOTICE that pursuant to Trademark Rule 2.125, Applicant/Respondent The Great Atlantic & Pacific Tea Company, Inc. ("A&P") is filing the trial testimony of Bird's Eye Foods, LLC., by John Kroeger, taken on September 26, 2013 and the accompanying Applicant's Exhibits DDD-III and Opposer's 70.

Dated: New York, New York
May __, 2014

Respectfully submitted,

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

By: 

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NOTICE OF FILING TRIAL TESTIMONY

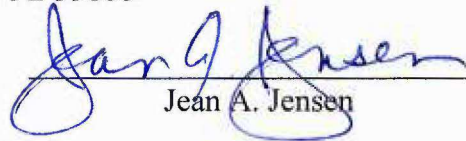
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Filing Trial Testimony has been served on opposer by first class mail, postage prepaid on May __, 2014 addressed to its attorneys as follows:

James Lake, Esq.
Thomas & LoCicero, PL
601 South Boulevard
Tampa, FL 33606



Jean A. Jensen

INDEX OF EXHIBITS – John Kroeger

Applicant's Exhibits:

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Exhibit Applicant FFF	A document entitled Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Section 8 & 9,	17
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CERTIFIED COPY

In The Matter Of:

PUBLIX ASSET MANAGEMENT COMPANY

v.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.

JOHN KROEGER - Vol. 1

September 26, 2013

MERRILL CORPORATION

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

PUBLIX ASSET MANAGEMENT	:	
COMPANY,	:	
Opposer,	:	Opposition No. 91186148
	:	Opposition No. 91186863
v.	:	
	:	
THE GREAT ATLANTIC &	:	
PACIFIC TEA COMPANY, INC.,	:	
Applicant	:	

Thursday, September 26, 2013

Testimony of JOHN KROEGER, held at Bird's Eye Foods, LLC, 399 Jefferson Road, Parsippany, New Jersey 07054, commencing at 2:02 p.m., on the above date, before Mickey Dinter, Registered Professional Reporter, Certified Court Reporter and Notary Public for the State of New Jersey.

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19 John Kroeger

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1 MS. COHEN: Alana Cohen, from
2 Cowan, Liebowitz & Latman, 1133 Sixth
3 Avenue, counsel for the Applicant, the
4 Great Atlantic and Pacific Tea Company,
5 Inc.

6 MR. LAKE: James Lake of
7 Thomas & LoCicero, 601 South Boulevard
8 Tampa, 33606. We represent Publix Asset
9 Management Company, the Opposer.

10 MR. STEWART: Michael Stewart, at
11 Radar, Fishman & Grauer, 39533 Woodward
12 Avenue, Suite 140, Bloomfield Hills,
13 Michigan, and we represent the third-
14 party deponent. The witness will not
15 be waiving signature today.

16 JOHN KROEGER, Senior Vice
17 President and Deputy General Counsel,
18 Pinnacle Foods, 399 Jefferson Road
19 Parsippany, New Jersey, being first
20 duly sworn/affirmed, was examined and
21 testified as follows:

22 MS. COHEN: Thank you everyone
23 for your cooperation. I do want to
24 state for the record that Pinnacle Foods
25 is here today pursuant to a subpoena,

1 and I do appreciate it and I'm glad for
2 your attendance. I would like not to
3 mark the subpoena because this is a
4 trial deposition and, so, as opposed to
5 a discovery deposition, the exhibits are
6 really trial exhibits. Is that okay?

7 MR. STEWART: Well, first of
8 all, on behalf of the deponent, we dis-
9 agree that we are here pursuant to
10 subpoena. We are here in a collaborative
11 way to help both parties in terms of
12 answering factual questions. We have
13 not produced any documents. We are not
14 going to be reviewing any confidential
15 information today, but there's going to
16 be cooperation for the benefit of both
17 parties to answer factual questions that
18 do not reveal confidential information.
19 So, I'm not necessarily in agreement
20 with you that we're here pursuant to a
21 subpoena, but we are here at the request
22 of both parties with respect to this
23 particular trial testimony for the two
24 indicated oppositions.

25 MS. COHEN: Thank you.

1 Jim, it's okay if we don't mark the
2 Notice and Subpoena?

3 MR. LAKE: That's fine with
4 me.

5 MR. STEWART: One other
6 question. I don't know if you have
7 marked it yet, but neither the witness
8 nor I have seen this Notice of taking
9 trial testimony with the date of
10 September 18, 2013. I just want to put
11 you on notice of that.

12 MS. COHEN: We mailed it to
13 your office and, I think, we e-mailed it
14 to your office.

15 MR. STEWART: I have not seen
16 this.

17 MS. COHEN: It's the same as
18 it was before, but I can --

19 MR. STEWART: I have it now
20 in front of me. We acknowledge it. I'm
21 just telling you this is not a document
22 I've seen before today with the date of
23 September 18, 2013.

24 MS. COHEN: Thank you.

25 BY MS. COHEN:

1 Q. Mr. Kroeger, you stated that your
2 position is Senior Vice President, General
3 Counsel of Pinnacle Foods, is that correct?

4 A. No. It's Senior Vice President and
5 Deputy General Counsel.

6 Q. Okay, sorry.

7 A. No problem.

8 Q. And what is the business of Pinnacle
9 Foods?

10 A. We are a branded -- we're a food
11 manufacturer and distributor.

12 Q. And did Pinnacle Foods acquire Birds
13 Eye Foods?

14 A. Yes.

15 Q. And do you recall, approximately,
16 when that was?

17 A. 2007. No, 2009.

18 Q. And did it also acquire the assets
19 and the trademarks of Birds Eye Foods?

20 A. Yes, we did.

21 Q. Are you aware of a product called
22 Greenwood?

23 A. Yes, I am.

24 Q. And what product is that, sir?

25 A. It's a beets and cabbage jarred

1 product, vegetable product.

2 MS. COHEN: Mickey, if you
3 have there documents BE-33 and BE-34, if
4 you can give that to the witness.

5 Jim, these are previously
6 marked as A&P 151 and 155.

7 MR. LAKE: Thank you. I have
8 a set with your numbers, but I don't
9 have the BE numbers. Repeat those.

10 MS. COHEN: 33 and 34.

11 MR. LAKE: Are 154 and 155?

12 MS. COHEN: Correct.

13 MR. LAKE: Thanks.

14 MS. COHEN: I will send you
15 the set.

16 MR. LAKE: Thanks.

17 MS. COHEN: I'm sorry if I
18 have not.

19 MR. LAKE: I'm with you.

20 BY MS. COHEN:

21 Q. Mr. Kroeger, do you have those
22 documents?

23 A. Yes, I do.

24 Q. Thank you. If you look on the first
25 page, BE-33, you see apostrophe S after

1 the word Greenwood's on the center of the
2 page?

3 A. Yes.

4 Q. And if you see on the next page, 34,
5 there is no apostrophe S, and it states
6 "Amendment."

7 A. Yes.

8 Q. Is it your understanding that the
9 trademark was amended from Greenwood's,
10 apostrophe S, to Greenwood alone?

11 A. On this document, I can't answer
12 that. It is what it is. It was in 1978,
13 the document says, and we purchased the
14 company in 2009.

15 Q. Okay. Let me ask you this. In
16 terms of the product name, are you aware
17 whether it is Greenwood or Greenwood's?

18 A. Greenwood is on the label, without
19 apostrophe S.

20 Q. Thank you.

21 Going back to BE-33, this is
22 a copy of a Registration Certificate for
23 Trademark Registration Number 713937,
24 registered April 11, 1961.

25 Mr. Kroeger, does that appear

1 to be what BE-33 is?

2 A. That's what it looks like.

3 Q. And do you see on BE-33 that it
4 states that the product was first sold in
5 the year 1950? Do you understand that to
6 be the case?

7 A. Yes, I do. That's my understanding.

8 Q. Okay. I would like to mark this,
9 BE-33, as Applicant Exhibit DDD.

10 MR. STEWART: And just for
11 clarification, for my sake, are you only
12 labeling that exhibit as the one page?
13 The witness has a two-page document in
14 front of him.

15 MS. COHEN: Correct. Only
16 the one page for now.

17 MR. STEWART: Let's go ahead
18 and remove the staple, if counsel
19 doesn't mind, so we don't have any
20 confusion.

21 MS. COHEN: Absolutely,
22 please. Thank you.

23 (Exhibit Applicant DDD, a
24 Registration Certificate for Trademark
25 Registration Number 713937, registered

1 April 11, 1961, moved into evidence.)

2 MS. COHEN: And I would like

3 to offer Applicant DDD into evidence.

4 MR. LAKE: No objection.

5 MS. COHEN: Thank you, Jim.

6 BY MS. COHEN:

7 Q. If you will look at BE-34, again,
8 sir. Again, that is the page that reads on
9 top, "Amendment Registration Number 713937,
10 the Application to amend having been made by
11 Curtice Burns, Inc., owner of the
12 registration. The drawing is amended to
13 appear as follows:" And, then, the trade-
14 mark is "Greenwood" without the apostrophe
15 S.

16 Does that appear to be the
17 nature of the document, the BE-34 Amendment?

18 A. Yes, that's what it says.

19 Q. Thank you. I'm going to mark this
20 as Applicant EEE. I will offer triple E
21 into evidence. Any objection?

22 (Exhibit Applicant EEE,
23 Amendment Registration Number 713937,
24 the Application to amend having been
25 made by Curtice Burns, Inc., owner of

1 the registration, moved into evidence.)

2 MR. LAKE: No objection.

3 MS. COHEN: Thank you.

4 BY MS. COHEN:

5 Q. Mr. Kroeger, do you know where
6 Greenwood products are sold?

7 A. Yes.

8 Q. Where is that, sir?

9 A. In grocery stores.

10 Q. And would that be grocery stores
11 nationwide?

12 A. To my understanding, they are in the
13 west, east and midwest; not certain about
14 southeast, southwest.

15 Q. And does Pinnacle Foods distribute
16 the products directly?

17 A. Yes, we sell them.

18 Q. And do you know where the Greenwood
19 beets are packaged?

20 A. I believe it's through a co-packer,
21 but I don't know the name or where.

22 Q. Okay. No problem.

23 Are you familiar with Curtice
24 Burns, Inc.?

25 A. Yes, I am.

1 Q. And who are they, sir?

2 A. It was a predecessor corporation in
3 the chain of companies when we bought Birds
4 Eye.

5 Q. So, a predecessor owner of the Birds
6 Eye Company?

7 A. Of some of the brands; not all.

8 Q. Okay. I'm going to have you look at
9 document BE-1, 2, 3, 4, 5. I'm trying to
10 make it simple, Mr. Kroeger.

11 MR. STEWART: I have one
12 clarification. It's pronounced Kroeger,
13 not Kroeger.

14 MS. COHEN: I'm sorry.

15 MR. STEWART: He wasn't going
16 to say anything, but it was getting to
17 me.

18 BY MS. COHEN:

19 Q. You have in front of you, sir,
20 "Combined Declaration of Use and/or
21 Excusable Nonuse/Application for Renewal
22 of Registration of a Mark Under Sections 8
23 and 9." And, then, it reads "Registration
24 Number 713937," is that correct?

25 A. Yes.

1 Q. Do you see further down, the
2 attorney, Michael Fishman, appears on that
3 page at Rader, Fishman & Grauer, correct?

4 A. Yes, it does.

5 Q. Okay. And is it your understanding
6 that pursuant to this document, the
7 trademark, Greenwood, was renewed in 2011?

8 A. Yes, I believe that's what this
9 documents.

10 Q. If you see on page BE-40, the date
11 of signature is 9/26/2011, is that correct?

12 A. Yes.

13 Q. And if you would look at page BE-39,
14 please.

15 A. Yes.

16 Q. In the middle of the page, it says,
17 "Goods to be Deleted." If you see that,
18 it says, "Spiced Pears, Rhubarb."

19 A. Yes.

20 Q. And, then, the next, it says, "Goods
21 or Services of which the market is in use:
22 Harvard Beets, Pickled Beets, Apple Rings,
23 (Spiced Crabapples, Spiced Apples), Red
24 Cabbage, (Packed in Glass and Cans.)"

25 A. Yes.

1 Q. Is it your understanding that these
2 goods are currently being sold by your
3 company?

4 A. As of today, I do not believe all of
5 these are being sold.

6 Q. Okay. Do you know which of them are
7 being sold?

8 A. I believe Harvard Beets, Pickled
9 Beets and Red Cabbages, and Red Cabbages
10 and Onions are being sold.

11 Q. So, not the Apple Rings?

12 A. Not that I'm aware of.

13 Q. Okay. Thank you. But, as of 2011,
14 they were being sold, to your knowledge?

15 A. I don't recollect it at that point.

16 Q. Michael Fishman signed the document
17 that it was. So, do you have any reason to
18 believe that Michael Fishman was incorrect?

19 MR. LAKE: I object.

20 BY MS. COHEN:

21 Q. I'm trying to see if you have any
22 reason to think you would assume that this
23 document is accurate, correct?

24 A. I would assume the document was
25 accurate.

1 Q. Thank you. That's all I'm trying
2 to get to.

3 So, is it your understanding
4 that the Greenwood trademark was being used
5 from 1950 to 2011 on all of the goods listed
6 on page 39, except for Spiced Pears and
7 Rhubarb?

8 A. No. What I said is, you asked me a
9 question is it currently being sold? And
10 I told you what was currently being sold,
11 which is as of now.

12 Q. Correct.

13 A. I don't know what exact products
14 were available from 1950 until now or before
15 we purchased Birds Eye in 2009.

16 Q. Right. But as of the date of the
17 documents, which is stating that the goods
18 were sold from 1950 to 2011, this document
19 is stating they were being sold from 1950
20 to 2011.

21 A. I confirm that's what the document
22 says.

23 Q. Okay.

24 MR. STEWART: I'm also going
25 to object, but I will reserve my

1 questions until later.

2 BY MS. COHEN:

3 Q. Can you look at, sir, at BE-45?

4 A. I'm looking at it.

5 Q. Thank you. Is that jar of Greenwood
6 Harvest Beets familiar to you?

7 A. Yes.

8 Q. And do you believe that's a jar of
9 Greenwood Harvest Beets that's sold by your
10 company?

11 A. It looks like what's in the market
12 today.

13 Q. Thank you.

14 I would like to mark BE-37
15 to 46, and the reason I'm doing it as one
16 document, is because it's one document that
17 is filed in the Trademark Office, if that's
18 okay with everyone.

19 MR. LAKE: I don't object to
20 it being marked that way.

21 MS. COHEN: I will offer FFF
22 into evidence as Applicant FFF.

23 (Exhibit Applicant FFF, a
24 document titled Combined Declaration of
25 Use and/or Excusable Nonuse/Application

1 for Renewal of Registration of a Mark
2 under Section 8 & 9, moved into
3 evidence.)

4 MR. LAKE: I'm going to
5 object. This wasn't disclosed in a
6 timely manner. I have gone through the
7 documents today you produced previously
8 and saw the two documents we marked
9 previously, but I don't see this one, so
10 I would object that this wasn't dis-
11 closed timely.

12 MS. COHEN: It's attached as
13 Exhibit L to the Summary Judgment Motion
14 filed on August 10. It's the file
15 history of this trademark as Exhibit L
16 to that.

17 MR. LAKE: Thanks for letting
18 me know. I will take a look. I don't
19 have the Summary Judgment papers in
20 front of me. I stand by our objection.

21 MS. COHEN: Okay. It's
22 there; and, also, that it's a publicly-
23 available document. In any event, it's
24 there.

25 BY MS. COHEN:

1 Q. Do you know, sir, in which section
2 of the supermarket Harvest Beets are sold?

3 A. I believe it's in the, around the
4 canned vegetable area, but it's really up
5 to each grocery store.

6 Q. Your information is that the
7 products are sold in a glass jar?

8 A. Yes.

9 Q. Do you have any idea how many units
10 of Greenwood Beets are sold per year?

11 A. I do not.

12 Q. Would you believe that it's over a
13 half million units?

14 MR. STEWART: I'm going to
15 instruct the witness not to answer the
16 question. It reveals confidential
17 information of the deponent.

18 MS. COHEN: Generally, it's
19 not a proper objection to say that it's
20 confidential. We would just say that
21 it's pursuant to the Protective Order in
22 the case.

23 MR. STEWART: We have made
24 it clear that we're not producing any
25 documents and we're not reviewing any

1 confidential information, and we've been
2 clear about that since the beginning.
3 I'm telling the witness he's not to
4 answer that question.

5 MS. COHEN: I don't want to
6 make a motion. I don't see what the big
7 deal is if it's kept confidential, but
8 that's your prerogative.

9 MR. STEWART: Thank you.

10 MS. COHEN: You're welcome.

11 BY MS. COHEN:

12 Q. Do you believe that the Greenwood
13 Beets, sir, are sold nationwide, excuse me,
14 are sold in supermarkets in the majority of
15 the United States?

16 A. My belief is that's true.

17 Q. Thank you. Are you familiar with
18 any customer compliments or accolades that
19 are given about Greenwood?

20 MR. LAKE: Objection, am-
21 biguous.

22 THE WITNESS: No, I'm not.

23 BY MS. COHEN:

24 Q. Do you know that there are consumers
25 that believe and remembered the brand from

1 their grandparents' day and are familiar
2 with it that way?

3 MR. LAKE: Objection, hearsay.

4 THE WITNESS: I don't know
5 that.

6 BY MS. COHEN:

7 Q. I'm asking if you've heard that?

8 A. I'm not aware of that.

9 Q. Okay. That's fine.

10 Let's go to the Pickled
11 Beets. Is it your understanding that the
12 Pickled Beets are sold in cans or in jars?

13 A. My understanding is, it's in jars.

14 Q. Thank you.

15 MR. STEWART: I do want to,
16 for the benefit of both counsel, we have
17 brought three bottles today that,
18 through the court reporter, we can give
19 you pictures. One says "Greenwood
20 Sweet and Tangy Sliced Pickled Beets;
21 one is a bottle of Greenwood Sweet and
22 Sour Red Cabbage; and the third has the
23 label of Greenwood Sweet and Tangy
24 Harvard Beets. So, we have three jars
25 with the Greenwood mark for those three

1 indicated products and if you wish to
2 mark it, that's fine with us, but we
3 will make this information available to
4 everybody involved in this deposition.

5 MS. COHEN: Thank you. I
6 would like to mark those jars and we
7 would, obviously, be willing to pay you
8 for them, if we can take them and mark
9 them.

10 MR. STEWART: I think we can
11 mark them. I think the logistics would
12 cost a lot more than just giving them
13 to you. I think you may have them.

14 MR. LAKE: Thank you.

15 MS. COHEN: Thank you.

16 (Exhibit Applicant GGG, a
17 16-ounce jar of Greenwood Sweet & Tangy
18 Harvard Beets Original Recipe, moved
19 into evidence.)

20 (Exhibit Applicant HHH, a
21 jar of Greenwood Sweet and Sour Red
22 Cabbage 16-Ounce Original Recipe,
23 moved into evidence.)

24 (Exhibit Applicant III, a
25 16-ounce jar of Greenwood Sweet & Tangy

1 Sliced Pickled Beets with Onions,
2 Original Recipe, moved into evidence.)

3 MR. STEWART: Jim, what I can
4 do, I will take a few picture. I can
5 e-mail them to you.

6 MR. LAKE: Okay. That's great.
7 Thank you.

8 BY MS. COHEN:

9 Q. Mr. Kroeger, in front of you is
10 Applicant GGG. Can you tell me what that
11 is?

12 A. This is a jar of -- GGG is a jar,
13 sixteen-ounce jar, of Greenwood Sweet &
14 Tangy Harvard Beets Original Recipe.

15 Q. Thank you. And is that a jar as
16 the product is actually sold in the United
17 States?

18 A. Yes, it is.

19 MS. COHEN: Thank you. I
20 would like to offer Applicant GGG into
21 evidence.

22 MR. LAKE: No objection.

23 MS. COHEN: Thank you.

24 BY MS. COHEN:

25 Q. And, sir, do you have Applicant HHH?

1 A. Yes, I do.

2 Q. Can you tell me what that is?

3 A. Greenwood Sweet and Sour Red
4 Cabbage 16-Ounce Original Recipe. It's a
5 jar.

6 Q. Thank you. And is that a jar, a
7 product, as your company actually sells in
8 the United States?

9 A. Yes.

10 Q. Do you know if there's another
11 version, meaning a different recipe or there
12 is only one SKU of that product?

13 A. I do not know.

14 Q. Thank you. And do you also have
15 Applicant's -- can we offer into evidence
16 Applicant's HHH?

17 MR. LAKE: Sure. No objection.

18 MS. COHEN: Thank you.

19 BY MS. COHEN:

20 Q. Do you also have, sir, Applicant's
21 III?

22 A. Yes, I do.

23 Q. And can you tell us what that is?

24 A. It's a Greenwood Sweet & Tangy
25 Sliced Pickled Beets with Onions, a 16-ounce

1 jar, Original Recipe.

2 Q. Do you know if there are any beets
3 without onions?

4 A. I'm not sure. I asked to get just
5 representative samples of products, not of
6 all the products.

7 Q. Thank you. So there could be more.

8 I would like to offer
9 Applicant's III into evidence.

10 MR. LAKE: No objection.

11 BY MS. COHEN:

12 Q. Thank you. And is Applicant III a
13 jar of beets as they are actually sold in
14 the United States?

15 A. Yes, it is.

16 Q. Thank you. Do you know if you have
17 done any advertising for the Greenwood
18 products?

19 A. I do not believe Pinnacle has
20 advertised itself. It does support, through its
21 trade programs, supports circulars for
22 grocery stores, so it probably would have
23 been advertised by grocery stores, not by
24 us.

25 Q. I understand. Thank you. Do you

1 have any knowledge of how many grocery
2 stores Pinnacle supplies?

3 A. I do not.

4 Q. Do you know where the products in
5 Exhibit HHH would be shelved in a super-
6 market?

7 A. I believe I answered that. We aim
8 to put it where the canned vegetable are,
9 but it's really up to the grocery store
10 where they display it.

11 Q. Yes, we had answered that as to the
12 Harvard Beets. I wasn't sure if it was
13 similar.

14 A. It would be similar.

15 Q. Thank you. Is that the same for
16 the Sweet & Tangy Beets?

17 A. Yes, it would be.

18 Q. These products are shelf stable?

19 A. Yes.

20 MS. COHEN: All right. I
21 have no further questions.

22 BY MR. LAKE:

23 Q. I just have a few here. I just want
24 to make sure I understood some of the
25 implications of some of the things you said

1 earlier. Forgive me, some of this might
2 be repetitive, but I don't believe it will
3 be.

4 You have already discussed a
5 little bit about what Greenwood is used for
6 today. There are no Greenwood stores that
7 your company operates, is that correct?

8 A. We do not operate a Greenwood store.

9 MS. COHEN: Objection. No
10 foundation.

11 BY MR. LAKE:

12 Q. Are there any Greenwood dairy
13 products?

14 A. Not that we sell.

15 MS. COHEN: Objection. No
16 foundation.

17 BY MR. LAKE:

18 Q. To be clear, I'm just asking about
19 Pinnacle's products. I'm not asking about
20 third parties.

21 A. There are no Pinnacle --

22 Q. Does Pinnacle produce any Greenwood
23 meat products?

24 A. No.

25 MS. COHEN: Wait. He was

1 still answering. If he wants to answer
2 that "No, but my next door neighbor
3 sells it, I don't see why he can't,"
4 but in any event...

5 MR. LAKE: Okay. Maybe my
6 speaker phone cut out. I did not hear
7 anything further.

8 MR. STEWART: Why don't you
9 ask the question again to avoid
10 ambiguity.

11 BY MR. LAKE:

12 Q. Sure. Let me ask you about a
13 product that Pinnacle manufactures. Does
14 Pinnacle manufacture any Greenwood-branded
15 dairy products?

16 A. No.

17 Q. Does Pinnacle produce any Greenwood-
18 branded meat products?

19 A. No.

20 Q. Does Pinnacle produce any Greenwood-
21 branded fruits?

22 MS. COHEN: Objection. These
23 are fruits.

24 BY MR. LAKE:

25 Q. Does Pinnacle produce -- all right.

1 A. I'm not sure if beets are fruits or
2 a vegetable.

3 MS. COHEN: Now, I have to
4 Google it.

5 THE WITNESS: I'm not one-
6 hundred percent confident about where
7 the apples are. I just have not seen
8 that product.

9 BY MR. LAKE:

10 Q. Okay. And let me look back on that.
11 Just a moment, please.

12 Did you tell us earlier
13 you're not aware of Apple Rings still being
14 sold today, is that right?

15 A. Right, I'm not aware of it. But, I
16 don't want to give -- you said, "Are there
17 any?" And I don't know the absolute answer
18 to that.

19 Q. Okay. That's what I was trying to
20 get clear.

21 Does Pinnacle produce any
22 Greenwood-branded paper products?

23 A. No.

24 Q. Does Pinnacle produce any Greenwood-
25 branded condiments?

1 MS. COHEN: Objection. These
2 might be used as condiments.

3 THE WITNESS: I have to kind
4 of agree with that. I'm not sure they
5 aren't used as condiments.

6 BY MR. LAKE:

7 Q. Is Greenwood used by your company to
8 identify any salad dressings?

9 A. No.

10 Q. Is Greenwood used by your company to
11 identify any pet products?

12 A. No.

13 Q. Let me ask, is there in the room a
14 document, a web page printout titled
15 "Greenwood Beets Home Page"?

16 MR. STEWART: There is.

17 MR. LAKE: And, Alana, for
18 just, for your reference and for the
19 record, this is Bates numbered A&P 1095.

20 MS. COHEN: That's the
21 document you sent to Mr. Stewart?

22 MR. LAKE: That's right.

23 MS. COHEN: Okay.

24 MR. STEWART: We need to go
25 off the record.

1 (Discussion off the record.)

2 ----

3 (Back on the record.)

4 BY MR. LAKE:

5 Q. Mr. Kroeger, do you recognize this
6 document?

7 A. No.

8 Q. Okay. If you look at the bottom
9 left-hand corner of this document, there
10 appears to be a domain number, www.BirdsEye
11 Foods.com/Greenwood. Do you see that?

12 A. Yes, I do.

13 Q. Okay. With regard to the domain
14 name, the BirdsEyeFoods.com portion, is that
15 a domain name that Pinnacle uses today for
16 Birds Eye food products?

17 A. No. Well, it's not the active
18 primary website for Birds Eye foods, for
19 Birds Eye products.

20 Q. Okay. Let me ask you this. Are
21 you familiar with the history of the name
22 Greenwood? Where it came from?

23 A. No, I'm not.

24 Q. Okay. Do you have any -- are you
25 familiar with a -- strike that. Let me

1 start again.

2 Do you have an understanding
3 of what it means to say that something is
4 a "green" product?

5 A. Yes.

6 Q. What's your understanding?

7 A. It's environmentally friendly.

8 Q. Do you know if, whether the name
9 Greenwood was applied to these products
10 today because they are environmentally
11 friendly?

12 MS. COHEN: Objection.

13 THE WITNESS: From reading
14 the page, it appears to be, come from
15 somebody's name.

16 BY MR. LAKE:

17 Q. So, you don't know the origin of the
18 name Greenwood or whether it was applied
19 because these are considered environmentally
20 friendly products?

21 A. I do not.

22 Q. Okay. The three products that we've
23 marked, the actual jars that you have in
24 front of you, GGG, HHH and III, with regard
25 to those products, do you know whether

1 grocery stores sell those products for less
2 than \$20 each, say?

3 A. I don't have knowledge of that.

4 Q. Okay. The jars that you brought
5 with you today, I appreciate the courtesy
6 of providing those, that you provided those
7 to us, and I appreciate that, you have not
8 provided any documents to A&P counsel in
9 connection with this case, have you?

10 A. No.

11 Q. In particular, just so the record
12 is clear, you have not provided any in-
13 formation to A&P regarding the advertising
14 of grocers or anyone else for Greenwood
15 products, have you?

16 MS. COHEN: Except for what
17 he testified today.

18 THE WITNESS: I have not.

19 BY MR. LAKE:

20 Q. Again, no information regarding
21 annual sales?

22 A. I have not provided that.

23 MS. COHEN: Objection, except
24 for what he testified today.

25 MR. LAKE: I believe Michael

1 instructed him not to answer that
2 question.

3 MS. COHEN: He talked about
4 these product are sold annually. To me,
5 that's discussion of the sales of the
6 product.

7 BY MR. LAKE:

8 Q. No information was provided in
9 writing regarding the volume of the annual
10 sales of Greenwood products, is that
11 correct, Mr. Kroeger?

12 A. Correct.

13 MR. LAKE: That's all I have.

14 MS. COHEN: Thank you, Jim.

15 MR. STEWART: I have a couple
16 of questions for the witness, more to
17 clarify the factual record, because
18 there may be a little bit of confusion.

19 BY MR. STEWART:

20 Q. I would like to go back to Applicant
21 FFF. I'm going to page BE000039. So, page
22 39. I will ask the witness if he -- I'm
23 looking at the middle of the page which
24 says "Goods or Services in use in Commerce
25 or for which owners claims excusable

1 nonuse." The document states as follows:
2 "Harvard Beets, Pickled Beets, Apple Rings,"
3 open parens, open parens Spiced Crabapples,
4 Spiced Apples, close parens, close parens.
5 Red Cabbage, open parens, open parens Packed
6 in Glass and Cans close parens, close
7 parens."

8 I'm asking the witness if
9 he's familiar with what the meaning is of
10 the words between the double parentheses?

11 A. I'm not a hundred percent clear on
12 what I, in my head, I think. I don't know
13 a hundred percent what they are to mean.

14 Q. If you can answer the question, you
15 can answer the question.

16 A. My guess is, they are the flavors of
17 apple rings and/or whether the product is,
18 the cabbages are packed in glass and cans.

19 Q. Okay. Then, the other question for
20 this document, are you aware of anything in
21 this document that states that the register
22 mark has been in unlimited use or continuous
23 use since 1950 as provided in that document?

24 A. Well, I don't see anything about
25 continuous use since 1950; only during the

1 period of the report.

2 MR. STEWART: No further

3 questions. Any follow-up?

4 MS. COHEN: I might. I just
5 might.

6 BY MS. COHEN:

7 Q. If you would look at, sir, document
8 BE-16, 17, 18 and 19 for now.

9 A. I have them.

10 Q. Thank you. And if you would look
11 at -- well, BE-16 appears to be a receipt
12 from the PTO of a document which is X'd as
13 a Section 8 and a Section 15 and it's dated
14 June 17, 1966, do you see that?

15 A. Yes, I do.

16 Q. And it is -- on the next page, it
17 states, "Enclosed is a"-- "Enclosed herewith
18 is a combined affidavit under Section 8 of
19 15; a specimen of the mark and acknowledge-
20 ment card" and, also, it is registration
21 number 713937, do you see that?

22 A. Yes, I do.

23 Q. On BE-18, I think that the language
24 we were, Michael was just asking about might
25 be there in the middle of the page as of

1 1966.

2 The signator is saying that
3 the market shown therein has been in
4 continuous use in commerce among the several
5 states for five consecutive years from 1961
6 for Harvest Beets, et cetera." We can
7 read that in a minute, and that says, "Mark
8 is still in commerce among the several
9 states." Do you see that?

10 A. Yes, I do.

11 Q. Are you familiar with what Section
12 8 and 15 document is?

13 A. Somewhat. It's a Use Declaration.

14 Q. Are you familiar with that you need
15 only file that document once in the lifetime
16 of the trademark?

17 A. No.

18 Q. Do you know who the Borden Company,
19 is or was?

20 A. I'm aware there was a Borden Company.

21 Q. And do you know that the Borden
22 Company was a predecessor owner of this
23 trademark?

24 A. I was not.

25 MS. COHEN: Okay. I have

1 nothing further.

2 MR. LAKE: I would like to,
3 since the witness looked at the document
4 that I sent to Michael, I would like
5 that marked for identification, if we
6 could. I won't offer it into evidence.
7 I would like the record to be complete
8 since the witness referred to it.

9 MR. STEWART: Thank you. I
10 would appreciate that.

11 (Exhibit Opposer 70, a web
12 page printout titled "Greenwood
13 America's Favorite Beets," marked for
14 identification.)

15 MR. LAKE: That's all I have.
16 (Testimony concluded, 2:58 p.m.)

17 ---

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SIGNATURE PAGE

I hereby acknowledge that I have read the foregoing transcript, and the same is a true and correct transcription of the answers given by me to the questions propounded, except for the changes, if any, noted on the errata sheet.

SIGNATURE:

DATE:

1	ERRATA SHEET		
2	PAGE	LINE	CORRECTION
3			
4	_____		
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CERTIFICATION

I hereby certify that the testimony and the proceedings in the foregoing matter are contained fully and accurately in the stenographic notes taken by me, and that the copy is a true and correct transcript of the same.



MICKEY DINTER
Registered Professional Reporter
Certified Court Reporter 30XIO00119

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1 INDEX

2

WITNESS: JOHN KROEGER

3

4

BY MS. COHEN

PAGE LINE

6 25

BY MR. LAKE

26 22

5

BY MR. STEWART

34 19

BY MS. COHEN

36 6

6

7

EXHIBITS

8

DESCRIPTION

PAGE LINE

9

Exhibit Applicant DDD, a
 Registration Certificate
 for Trademark Registration
 Number 713937, registered
 April 11, 1961

10 23

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12

Exhibit Applicant EEE,
 Amendment Registration
 Number 713937, the
 Application to amend having
 been made by Curtice Burns,
 Inc., owner of the
 registration

11 22

13

14

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16

Exhibit Applicant FFF, a
 document titled Combined
 Declaration of
 Use and/or Excusable
 Nonuse/Application
 for Renewal of Registration
 of a Mark under Section 8 &
 9,

17 23

17

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21

Exhibit Applicant GGG, a
 16-ounce jar of Greenwood
 Sweet & Tangy
 Harvard Beets Original
 Recipe

22 16

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23

24

Exhibit Applicant HHH, a
 jar of Greenwood Sweet and
 Sour Red Cabbage 16-Ounce

22 20

25

1	Exhibit Applicant III, a		
	16-ounce jar of Greenwood	22	24
2	Sweet & Tangy		
	Sliced Pickled Beets with		
3	Onions, Original Recipe		
4	Exhibit Opposer 70, a web	38	11
	page printout titled		
5	Greenwood America's		
	Favorite Beets		

6

7 REQUESTS FOR DOCUMENTS/ITEMS
 PAGE LINE
8 None

9

10 QUESTIONS INSTRUCTED NOT TO ANSWER
 PAGE LINE
11 None

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United States Patent Office

713,937
Registered Apr. 11, 1961

PRINCIPAL REGISTER Trademark

Ser. No. 28,471, filed June 6, 1959

GREENWOOD'S

Greenwood Foods, Inc. (New York corporation)
Swift St.
Waterloo, N.Y.

For: HARVARD BEETS, PICKLED BEETS, APPLE RINGS, SPICED CRABAPPLES, SPICED APPLES, SPICED PEARS, RHUBARB AND RED CABBAGE PACKED IN GLASS AND CANS, in CLASS 46.

First use in the year 1950; in commerce in the year 1950.

APPLICANT'S EXHIBIT *DDI*
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

BE 000033

Amendment

Registered April 11, 1961

Registration No. 718,987

Greenwood Foods, Inc.

Application to amend having been made by Curtice-Burns, Inc., owner of the registration above identified, the drawing is amended to appear as follows:

GREENWOOD

Such amendment has been entered upon the records of the Patent and Trademark Office and the said original registration should be read as so amended.

Signed and sealed this 4th day of July 1976.

[SEAL]

Attest:

JANIE COOKSEY,
Attesting Officer.

DONALD W. BANNER,
Commissioner.

APPLICANT'S EXHIBIT ^{EEE}
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	0713937
REGISTRATION DATE	04/11/1961
SERIAL NUMBER	72098471
MARK SECTION	
MARK	GREENWOOD
ATTORNEY SECTION (current)	
NAME	Michael D. Fishman
FIRM NAME	RADER, FISHMAN & GRAUER PLLC
STREET	39533 WOODWARD AVENUE, SUITE 140
CITY	BLOOMFIELD HILLS
STATE	Michigan
POSTAL CODE	48304
COUNTRY	United States
PHONE	248-594-0630
FAX	248-594-0610
EMAIL	tmddocketing@raderfishman.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
ATTORNEY SECTION (proposed)	
NAME	Michael D. Fishman
FIRM NAME	RADER, FISHMAN & GRAUER PLLC

APPLICANT'S EXHIBIT *FFF*
 PUBLIX v. THE GREAT ATLANTIC &
 PACIFIC TEA COMPANY
 Opp. No. 91186148 and Opp. No. 91186863

STREET	39533 WOODWARD AVENUE, SUITE 140
CITY	BLOOMFIELD HILLS
STATE	Michigan
POSTAL CODE	48304
COUNTRY	United States
PHONE	248-594-0630
FAX	248-594-0610
EMAIL	tmdocketing@raderfishmman.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	67092-0772

CORRESPONDENCE SECTION (current)

NAME	MICHAEL D. FISHMAN
FIRM NAME	RADER, FISHMAN & GRAUER PLLC
STREET	39533 WOODWARD AVENUE, SUITE 140
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STATE	Michigan
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COUNTRY	United States
PHONE	248-594-0630
FAX	248-594-0610
EMAIL	tmdocketing@raderfishmman.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes

CORRESPONDENCE SECTION (proposed)

NAME	MICHAEL D. FISHMAN
FIRM NAME	RADER, FISHMAN & GRAUER PLLC
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STATE	Michigan

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COUNTRY	United States
PHONE	248-594-0630
FAX	248-594-0610
EMAIL	tmcketing@raderfishman.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	67092-0772

GOODS AND/OR SERVICES SECTION

U.S. CLASS	046
GOODS OR SERVICES TO BE DELETED	Spiced Pears, Rhubarb
GOODS OR SERVICES IN USE IN COMMERCE OR FOR WHICH OWNER CLAIMS EXCUSABLE NONUSE	Harvard Beets, Pickled Beets, Apple Rings, ((Spiced Crabapples, Spiced Apples))Red Cabbage((Packed in Glass and Cans))

SPECIMEN FILE NAME(S)

ORIGINAL PDF FILE	<u>SPN0-1219918730-163007098 . GREENWOOD.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT\1\IMAGEOUT\1\720\984\72098471\xm12\S890002.JPG</u>
SPECIMEN DESCRIPTION	packaging for the goods

OWNER SECTION (current)

NAME	BIRDS EYE FOODS, INC.
STREET	90 LINDEN OAKS
CITY	ROCHESTER
STATE	New York
ZIP/POSTAL CODE	14625
COUNTRY	United States

OWNER SECTION (proposed)

NAME	Birds Eye Foods LLC
-------------	---------------------

STREET	399 Jefferson Road
CITY	Parsippany
STATE	New Jersey
ZIP/POSTAL CODE	14625
COUNTRY	United States
PHONE	07054-3707

LEGAL ENTITY SECTION (current)

TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware

LEGAL ENTITY SECTION (proposed)

TYPE	limited liability company
-------------	---------------------------

PAYMENT SECTION

NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	500
GRACE PERIOD	200
TOTAL FEE PAID	700

SIGNATURE SECTION

SIGNATURE	/mdf/
SIGNATORY'S NAME	Michael D. Fishman
SIGNATORY'S POSITION	Attorney - Michigan Bar Member
DATE SIGNED	09/26/2011
PAYMENT METHOD	DA

FILING INFORMATION

SUBMIT DATE	Mon Sep 26 16:57:25 EDT 2011
TEAS STAMP	USPTO/S08N09-12.199.187.3 0-20110926165725330444-07 13937-4807495b4be644cc6be 3e82ce16411a1ca1-DA-3337- 20110926163007098332

**Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of
Registration of a Mark under Sections 8 & 9
To the Commissioner for Trademarks:**

REGISTRATION NUMBER: 0713937

REGISTRATION DATE: 04/11/1961

MARK: GREENWOOD

The owner, Birds Eye Foods LLC, a limited liability company, having an address of
399 Jefferson Road
Parsippany, New Jersey 14625
United States

is filing a Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of
Registration of a Mark under Sections 8 & 9.

For U.S. Class 046, this filing does **NOT** cover the following goods or services for this specific class
listed in the registration, and these goods or services are to be permanently **deleted** from the registration:
Spiced Pears, Rhubarb

The mark is in use in commerce on or in connection with the following goods or services listed in the
existing registration for this specific class; or, the owner is making the listed excusable nonuse claim:
Harvard Beets, Pickled Beets, Apple Rings, ((Spiced Crabapples, Spiced Apples))Red Cabbage((Packed
in Glass and Cans))

The owner is submitting one specimen showing the mark as used in commerce on or in connection with
any item in this class, consisting of a(n) packaging for the goods.

Original PDF file:

[SPN0-1219918730-163007098_GREENWOOD.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

The registrant's current Attorney Information: Michael D. Fishman of RADER, FISHMAN & GRAUER
PLLC

39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, Michigan (MI) 48304
United States (USX)

The registrant's proposed Attorney Information: Michael D. Fishman of RADER, FISHMAN &
GRAUER PLLC

39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, Michigan (MI) 48304
United States (USX)

The docket/reference number is 67092-0772.

The phone number is 248-594-0630.

The fax number is 248-594-0610.

The email address is tmddocketing@raderfishmman.com.

The registrant's current Correspondence Information: MICHAEL D. FISHMAN of RADER, FISHMAN & GRAUER PLLC

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BLOOMFIELD HILLS, Michigan (MI) 48304
United States (USX)

The registrant's proposed Correspondence Information: MICHAEL D. FISHMAN of RADER, FISHMAN & GRAUER PLLC

39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, Michigan (MI) 48304
United States (USX)

The docket/reference number is 67092-0772.

The phone number is 248-594-0630.

The fax number is 248-594-0610.

The email address is tmddocketing@raderfishmman.com.

A fee payment in the amount of \$700 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Section 8: Declaration of Use in Commerce

Unless the owner has specifically claimed excusable nonuse, the mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /mdf/ Date: 09/26/2011

Signatory's Name: Michael D. Fishman

Signatory's Position: Attorney - Michigan Bar Member

Mailing Address (current):

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, Michigan 48304

Mailing Address (proposed):

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, Michigan 48304

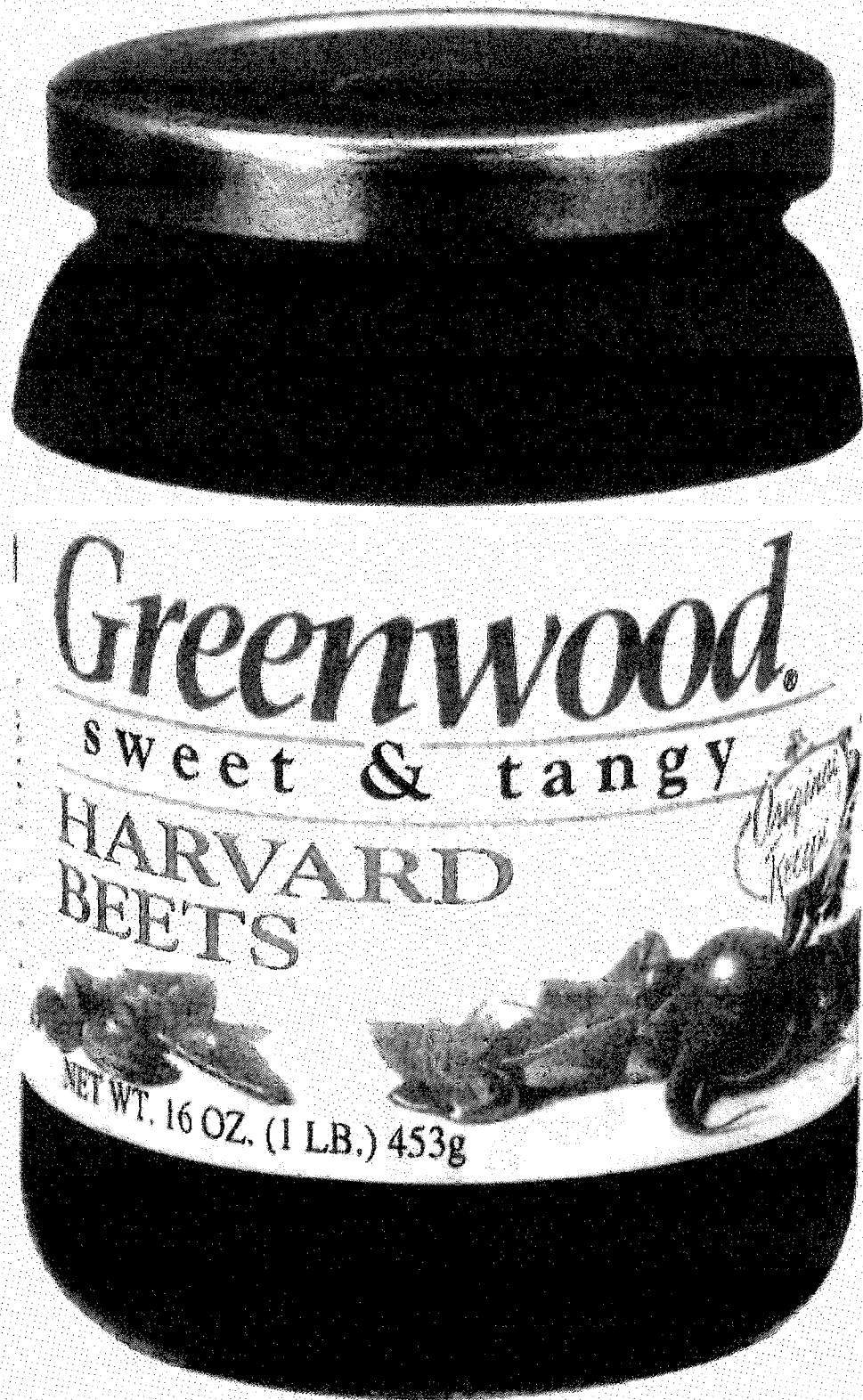
Serial Number: 72098471

Internet Transmission Date: Mon Sep 26 16:57:25 EDT 2011

TEAS Stamp: USPTO/S08N09-12.199.187.30-2011092616572

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e16411a1ca1-DA-3337-20110926163007098332



ROUTING SHEET TO POST REGISTRATION (PRU)

Registration Number: 0713937



Serial Number: 72098471



RAM Sale Number: 3337

RAM Accounting Date: 20110927

Total Fees: \$700

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20110926	\$100	1	1	\$100
Application for Renewal (§9)	7201	20110926	\$400	1	1	\$400
Grace period for §8	7206	20110926	\$100	1	1	\$100
Grace period for renewal	7203	20110926	\$100	1	1	\$100

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20110926





Applicant's Exhibit GGG

1901-193677

GGG
APPLICANT'S EXHIBIT
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863



Applicant's Exhibit GGG



Greenwood



Heat & Serve

INGREDIENTS: BEETS, WATER, CORN SYRUP, VINEGAR, MODIFIED FOOD STARCH, SALT, NATURAL FLAVORINGS.

It began in 1937 in Brooklyn, NY when Greenwood first put out his famous recipe for beets and distributed them with his fleet. Today, you too can enjoy his treasured recipe for Harvard Beets. We start with young beets, then add a time-honored secret blend of spices plus hints of orange and cloves for a truly unique taste and a rich sauce. We're sure you'll find Greenwood Beets are both good for you, and the best you've ever had in your own recipes, and delectable right out of the jar.

Nutrition

Facts

Serv. Size 1/2 cup (126g)

Servings about 3.5

Calories 100

Fat Cal. 0

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

Amount/Serving	%DV*	Amount/Serving
Total Fat 0g	0%	Total Carb. 27g
Sat. Fat 0g	0%	Fiber 1g
Trans Fat 0g		Sugars 19g
Cholest. 0mg	0%	Protein 1g
Sodium 370mg	15%	

Vitamin A 0% • Vitamin C 2% • Calcium 2%

When corresponding please include code from the lid.



BIRDS EYE FOODS

DISTRIBUTED BY BIRDS EYE FOODS
P.O. BOX 20382, ROCHESTER, NY 14620
www.birdseyefoods.com

APPLICANT'S EXHIBIT HHH
PUBLIC v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

1801-193677

BEST IF USED BY
5/1/2012

Greenwood
Sweet & Sour

RED
CABBAGE

NET WT. 16 OZ. (1 LB.) 453g

Applicant's Exhibit HHH

APPLICANT'S EXHIBIT 444
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

1801-193677



Applicant's Exhibit HHH

Greenwood

Heat & Serve

INGREDIENTS: RED CABBAGE, WATER, HIGH FRUCTOSE CORN SYRUP, VINEGAR, SALT, CITRIC ACID.

◆ It began in 1937 in Brooklyn, NY when the first put out his famous recipes for pickled Cabbage. We start with fresh, firm red cabbage at the height of perfection, then add a time-honored recipe for a truly unique sweet and sour taste. We're proud to bring you Greenwood Sweet & Sour Red Cabbage the best - perfect in your own recipes, and delectable right out of the jar.

Nutrition Facts

Serving Size 1/2 cup (130g)
Servings about 3.5
Calories 80
Fat Cal. 0

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

Amount/Serving	%DV*	Amount/Serving
Total Fat 0g	0%	Total Carb 1g
Sat. Fat 0g	0%	Fiber 1g
Trans Fat 0g		Sugars 1g
Cholest. 0mg	0%	Protein 1g
Sodium 330mg	14%	
Vitamin A 0% • Vitamin C 6% • Calcium 0%		

When corresponding please include code from the lid.

DISTRIBUTED BY: PINNACLE FOODS
CHERRY HILL, NJ 08034

APPLICANT'S EXHIBIT III
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

1901-193677



APPLICANT'S EXHIBIT III
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

1007-103227

Greenway
sweet & tangy
**SLICED
PICKLED
BEETS**
WITH ONIONS
NET WT. 16 OZ (1 LB)

Applicant's Exhibit III



Applicant's Exhibit III

Greenwood.



Best Served Chilled

INGREDIENTS: BEETS, HIGH FRUCTOSE CORN SYRUP, WATER, VINEGAR, SALT, DEHYDRATED ONION, NATURAL FLAVORINGS.

It began in 1937 in Brooklyn, NY. Greenwood first put out his famous pickled vegetables and distributed them with his... Today, you too can enjoy Irving Greenwood's recipe for Sliced Pickled Beets with Onions. We use tender, evenly sliced young beets, then add a fine blend of pickling spices for a truly unique sweet and tangy taste. An onion for added zip. We're sure you'll find Greenwood's Beets with Onions are both good for you, and the best you've ever tasted - perfect in your own recipes, and delectable right out of the jar.

Nutrition Facts

Serv. Size 1oz (28g/4 Slices)
Servings about 10
Calories 20
Fat Cal. 0

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

Amount/Serving	%DV*	Amount/Serving
Total Fat 0g	0%	Total Carb. 5g
Sat. Fat 0g	0%	Fiber less than 1g
Trans Fat 0g		Sugars 4g
Cholest. 0mg	0%	Protein 0g
Sodium 190mg	8%	
Vitamin A 0% • Vitamin C 0% • Calcium 2%		

When corresponding please include code from the lid.

DISTRIBUTED BY: PINNACLE FOODS
CHERRY HILL, NJ 08002



Greenwood

America's Favorite Beets

Beets aren't just for the salad bar anymore !

*History of
Greenwood &
Pickled Beets*

Mr. Irving Greenwood didn't know that he was making history back in 1937. The company he started with nine trucks now makes the #1 brand of pickled beets in the United States.

*Delicious Recipes
with Beets*

It's time for America to rediscover these versatile sweet ruby-colored orbs! Look at our recipes and see how you can use beets for the main course, sauces, desserts, and the old standby salad (with a new twist -- the beets are in the dressing).

*Varieties of
Greenwood
Beets*

You'll surprise your family (and maybe yourself!) with the many varieties of this delicious red vegetable.



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Opposer's Ex. 70

Publix v. The Great Atlantic & Pacific
Tea Co., Opp. Nos.
91186148 & 91186863

A&P001095