

ESTTA Tracking number: **ESTTA467605**

Filing date: **04/17/2012**

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

| | |
|------------------------|---|
| Proceeding | 91203706 |
| Party | Defendant Washington Place LLC |
| Correspondence Address | Jeffrey A. Lindenbaum COLLEN IP INTELLECTUAL PROPERTY LAW PC THE HOLYOKE MANHATTAN BUILDING,80 SOUTH HIGHLAND AVENUE OSSINING, NY 10562 UNITED STATES jlindenbaum@collenip.com, docket@collenip.com |
| Submission | Answer and Counterclaim |
| Filer's Name | Jeffrey A. Lindenbaum |
| Filer's e-mail | jlindenbaum@collenip.com, docket@collenip.com |
| Signature | /Jeffrey A. Lindenbaum/ |
| Date | 04/17/2012 |
| Attachments | N552_Answer to Notice of Opposition_120416.pdf (6 pages)(15381 bytes) eX A COVER.pdf (1 page)(8404 bytes) Know Thy Farmer Tess.pdf (2 pages)(43553 bytes) Know thy Farmer Reg.pdf (3 pages)(22965 bytes) |

Registration Subject to the filing

| | | | |
|-----------------|--|-------------------|------------|
| Registration No | 3829294 | Registration date | 08/03/2010 |
| Registrant | Chatham Imports, Inc. 245 Fifth Avenue, Suite 1402 New York, NY 100168728 UNITED STATES | | |

Goods/Services Subject to the filing

| |
|---|
| Class 033. First Use: 2010/05/00 First Use In Commerce: 2010/05/00 All goods and services in the class are requested, namely: Alcoholic beverages, namely, distilled spirits |
|---|

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

Chatham Imports, Inc.

Opposer,

v.

Washington Place LLC

Applicant.

Mark: KNOW THY FARMER

Opp. No.: 91203706

Serial No.: 77962565

ANSWER TO NOTICE OF OPPOSITION

Applicant, Washington Place LLC, respectfully Answers the Notice of Opposition as follows:

1. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 1, and therefore denies such allegations.
2. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 2, and therefore denies such allegations.
3. Applicant admits that Registration Number 3,829,294 is for the mark FARMER'S but is without sufficient information or belief with regard to the truth of the rest of the allegations of Paragraph 3, and therefore denies such allegations.
4. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 4, and therefore denies such allegations.
5. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 5, and therefore denies such allegations.

6. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 6, and therefore denies such allegations.

7. Applicant is without sufficient information or belief with regard to the truth of the allegations of Paragraph 7, and therefore denies such allegations.

8. Applicant admits the allegations of Paragraph 8.

9. Applicant denies the allegations of Paragraph 9.

10. Applicant admits the allegations of paragraph 10.

11. Applicant denies the allegations of paragraph 11.

12. Applicant admits the allegations of paragraph 12.

13. Applicant states that a label for goods in Internal Class 33 bearing Applicant's designation have been submitted and approved by the State of New York, but Applicant presently lacks sufficient information to admit or deny the allegation with respect to the status of a label application with the United States authority.

14. Applicant denies the allegations of paragraph 14.

15. Applicant denies the allegations of paragraph 15.

16. Applicant denies the allegations of Paragraph 16.

17. Applicant denies the allegations of Paragraph 17.

18. Applicant denies the allegations of Paragraph 18.

Applicant denies that Opposer is entitled to the relief sought in its WHEREFORE clause. Except as expressly admitted herein, Applicant denies each and every allegation contained in the Notice of Opposition, and denies that Opposer is entitled to any relief requested, and therefore demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief can be granted.
2. Applicant has priority.
3. Opposer's trademark is descriptive.
4. The Notice of Opposition is barred by waiver and/or estoppel.
5. The Notice of Opposition is barred by acquiescence.

**COUNTERCLAIM FOR CANCELLATION OF
US REGISTRATON NUMBER 3,829,294**

Applicant (or "Petitioner"), requests that U.S. Registration Number 3,829,294 be cancelled pursuant to 15 U.S.C. §1064, 37 CFR §2.111, and 15 U.S.C. 1052(e).

As grounds for cancellation, it is alleged that:

1. Petitioner is the owner of Registration No. 3,899,559 for the KNOW THY FARMER trademark, filed on March 30, 2010 and registered on January 4, 2011. See Exhibit A.
2. Registration No. 3,899,559 is registered in connection with International Classes 29 for fruit preserves, preserved fruit and vegetables, pickled vegetables, pickles, eggs, milk, and International Class 30 for Pancake mixes, flour, salt, popcorn, coffee, coffee mixes, cakes, frozen confections, ice cream, granola, wheat based cereal, fruit cakes, edible ices, baked products, namely, cookies, cakes, breads, scones, croissants, crackers, and asserts a first use date of at least as early as May 2, 2005 for both classes of goods.
3. Petitioner's first use of its KNOW THY FARMER trademark predates Opposer's alleged first use date of its FARMER'S trademark in the United States.

4. International Class 33 is within the natural zone of expansion for Petitioner's trademark, particularly since Petitioner's registration includes food and beverages.

5. Petitioner has priority to its KNOW THY FARMER trademark.

6. Petitioner pleads in the alternative that to the extent there is any likelihood of confusion between Petitioner's KNOW THY FARMER trademark and Opposer's FARMER'S trademark, it is Petitioner that has prior rights and the right to exclude Opposer.

7. Opposer's FARMER'S trademark is merely descriptive for Opposer's goods as it describes a feature and/or element of Opposer's goods.

8. If the Board finds that there is a likelihood of confusion between Opposer's FARMER'S trademark and Petitioner's KNOW THY FARMER trademark, then Petitioner would be damaged by the continued registration of Opposer's FARMER'S trademark.

Petitioner/Applicant therefore prays that Opposer's Registration Number 3,829,294 be cancelled, that this Counterclaim for Cancellation of this Registration be granted and that the Notice of Opposition against Petitioner's trademark application number 77/962,565 be denied with prejudice.

Respectfully submitted,

/Jeffrey A. Lindenbaum/
Jeffrey A. Lindenbaum
COLLEN IP
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NY 10562
Tel: 914-941-5668
Fax: 914-941-6091
jlindenbaum@collenip.com
Attorneys for Applicant/Petitioner

Dated: April 17, 2012

Enclosure: Filing Fee \$300

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE

By: /Jeffrey A. Lindenbaum/_____ Dated: April 17, 2012

EXHIBIT A

EXHIBIT A



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KNOW THY FARMER

| | |
|------------------------------------|---|
| Word Mark | KNOW THY FARMER |
| Goods and Services | IC 029. US 046. G & S: Fruit preserves, preserved fruit and vegetables, pickled vegetables, pickles, eggs, milk. FIRST USE: 20050502. FIRST USE IN COMMERCE: 20050502 |
| | IC 030. US 046. G & S: Pancake mixes, flour, salt, popcorn, coffee, coffee mixes, cakes, frozen confections, ice cream, granola, wheat based cereal, fruit cakes, edible ices, baked products, namely, cookies, cakes, breads, scones, croissants, crackers. FIRST USE: 20050502. FIRST USE IN COMMERCE: 20050502 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 85002216 |
| Filing Date | March 30, 2010 |
| Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | October 19, 2010 |
| Registration Number | 3899559 |
| Registration Date | January 4, 2011 |
| Owner | (REGISTRANT) Washington Place LLC LIMITED LIABILITY COMPANY NEW YORK 75 Washington Place New York NEW YORK 10011 |

Attorney of Record Perla M. Kuhn
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Serial Number: 85002216 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3899559

Mark

KNOW THY FARMER

(words only): [KNOW THY FARMER](#)

Standard Character claim: Yes

Current Status: [Registered](#). The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-01-04

Filing Date: 2010-03-30

Transformed into a National Application: No

Registration Date: 2011-01-04

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 101](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: [650 -Publication And Issue Section](#)

Date In Location: 2011-01-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [Washington Place LLC](#)

Address:

Washington Place LLC
75 Washington Place
New York, NY 10011
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: New York

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

Fruit preserves, preserved fruit and vegetables, pickled vegetables, pickles, eggs, milk

Basis: 1(a)

First Use Date: 2005-05-02

First Use in Commerce Date: 2005-05-02

International Class: 030

Class Status: Active

Pancake mixes, flour, salt, popcorn, coffee, coffee mixes, cakes, frozen confections, ice cream, granola, wheat based cereal, fruit cakes, edible ices, baked products, namely, cookies, cakes, breads, scones, croissants, crackers

Basis: 1(a)

First Use Date: 2005-05-02

First Use in Commerce Date: 2005-05-02

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-04-14 - TEAS Change Of Correspondence Received

2011-01-04 - Registered - Principal Register

2010-10-19 - Official Gazette Publication Confirmation E-Mailed

2010-10-19 - Published for opposition

2010-09-16 - Law Office Publication Review Completed

2010-09-16 - Assigned To LIE

2010-09-07 - Approved for Pub - Principal Register (Initial exam)

2010-09-03 - Teas/Email Correspondence Entered

2010-09-02 - Communication received from applicant

2010-09-02 - TEAS Response to Office Action Received

2010-06-28 - Notification Of Non-Final Action E-Mailed

2010-06-28 - Non-final action e-mailed

2010-06-28 - Non-Final Action Written

2010-06-19 - Assigned To Examiner

2010-04-06 - New Application Office Supplied Data Entered In Tram

2010-04-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Perla M. Kuhn

Correspondent

Perla M. Kuhn

Edwards Angell Palmer & Dodge LLP

P.O. Box 130

F.D.R. Station

New York NY 10150

Phone Number: 212-308-4411

Fax Number: 212-308-4844
