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Law Office of
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Attorney at Law

1117 East Harrison Street
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May 22, 2003



Office of the Commissioner For Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

05-23-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #11

RE: Conchita Foods, Inc., Petitioner v. Fritas
Encanto de Monterrey, S.A., de C.V.,
Registrant
Cancellation No. 32853
Serial No. 2,105,538

Dear Sir/Madam:

Enclosed please find the following documents for filing in the above-referenced matter:

- a. Designation of Domestic Representative
- b. Declaration/Power of Attorney
- c. Registrant's Answers to Petitioner's First Request for Admissions
- d. Registrant's Answers to Petitioner's First Set of Interrogatories
- e. Registrant's Responses to Petitioner's First Request for Production of Documents

A self-addressed stamped envelope is enclosed for your convenience in returning a file-stamped copy to this office.

Thank you for your assistance.

Sincerely,

LAW OFFICE OF RICHARD R. RODRIGUEZ
1117 East Harrison Street
Harlingen, TX 78550

By: Richard R. Rodriguez
RICHARD R. RODRIGUEZ

Enclosures

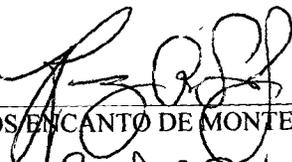
xc: Mr. Jesus Sanchelima, 235 S.W. Le Jeune Rd., Miami, Florida 33134

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DESIGNATION OF DOMESTIC REPRESENTATIVE

Mark: CONCHITAS (Block Letters)
Serial No.: 2,105,538
Applicant: Fritos Encanto de Monterrey, S.A. de C.V.

The law firm of RICHARD R. RODRIGUEZ, whose address is 1117 E. Harrison, Harlingen, Texas 78550, is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.


FRITOS ENCANTO DE MONTERREY, S.A. DE C.V.
By: Randy P. Seitz
Its: President

Dated: May 21st, 2003

DECLARATION

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. § 1001, and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he is properly authorized to make this declaration and execute this application on behalf of the applicant; that he believes the applicant to be the owner of the mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he believes the applicant to be entitled to use such mark in commerce; that to the best of his knowledge and belief no other person, firm, corporation or association has the right to use the mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true.

Dated this 21st day of May, 2003.

Randy P. Seitz
FRITOS ENCANTO DE MONTERREY, S.A., DE C.V.
By: _____
Its: President

POWER OF ATTORNEY AT LAW

Applicant hereby appoints the law firm of Richard R. Rodriguez, member in good standing of the Bar of the State of Texas, to prosecute this application, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration. It is requested that all correspondence be with RICHARD R. RODRIGUEZ at 1117 E. Harrison, Harlingen, Texas 78550 (telephone 956-425-4992).

Dated this 21st day of May, 2003.

Randy P. Seitz
FRITOS ENCANTO DE MONTERREY, S.A., DE C.V.
By: _____
Its: President

COPY

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

Conchita Foods, Inc.
Petitioner,

Cancellation No. 32853

v.

Fritas Encanto de Monterrey, S.A. de C.V.
Registrant

**REGISTRANT'S ANSWERS TO
PETITIONER'S FIRST REQUEST FOR ADMISSIONS**

To: Petitioner, **Conchita Foods, Inc.**, through its attorney of record, **Jesus Sanchelima, Esq.**, 235 S.W. Le Jeune Road, Miami, Florida 33134.

Registrant, **Fritas Encanto de Monterrey, S.A. de C.V.**, serves these answers to Petitioner, **Conchita Foods, Inc.** request for admissions.

1. Registrant has not used the Application Mark prior to November 21, 1996. (FILING DATE)
RESPONSE: DENY
2. Registrant did not use the Mark prior to 1996.
RESPONSE: DENY
3. Registrant did not use the Application Mark prior to 1996.
RESPONSE: DENY
4. Registrant did not use the Registered Word Mark prior to 1997.
RESPONSE: ADMIT
5. Registrant did not use the Mark prior to 1997.
RESPONSE: DENY

6. Registrant did not use the Application Mark prior to 1997.

RESPONSE: DENY

7. Registrant did not use the Registered Word Mark prior to 1997.

RESPONSE: ADMIT

8. Registrant did not use the Mark prior to 1998.

RESPONSE: DENY

9. Registrant did not use the Application Mark prior to 1998.

RESPONSE: DENY

10. Registrant did not use the Registered Word Mark prior to 1998.

RESPONSE: DENY

11. Registrant did not use the Mark prior to 1999.

RESPONSE: DENY

12. Registrant did not use the Application Mark prior to 1999.

RESPONSE: DENY

13. Registrant did not use the Registered Word Mark prior to 1999.

RESPONSE: DENY

14. Registrant did not use the Mark prior to 2000.

RESPONSE: DENY

15. Registrant did not use the Application Mark prior to 2000.

RESPONSE: DENY

16. Registrant did not use the Registered Word Mark prior to 2000.

RESPONSE: DENY

17. Registrant did not use the Mark prior to 2001.

RESPONSE: DENY

18. Registrant did not use the Application Mark prior to 2001.

RESPONSE: DENY

19. Registrant did not use the Registered Word Mark prior to 2001.

RESPONSE: DENY

20. Registrant did not use the Mark prior to 2002.

RESPONSE: DENY

21. Registrant did not use the Application Mark prior to 2002.

RESPONSE: DENY

22. Registrant did not use the Registered Word Mark prior to 2002.

RESPONSE: DENY

23. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 1996.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

24. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 1997.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

25. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 1998.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

26. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 1999.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

27. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 2000.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

28. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 2001.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

29. Registrant, or its related entities, knew of the existence of products distributed in the United States with the trademark "CONCHITA", at least as early as 2002.

RESPONSE: Admit in part, Deny in part. Trademark was cancelled in August 1985.

30. Registrant sells corn chips in the United States and Mexico.

RESPONSE: ADMIT

31. Registrant has, or its related entities, directly or indirectly, participated in trade shows in the United States.

RESPONSE: ADMIT

32. Registrant, or its related entities, knew of the existence of Petitioner prior to 1996.

RESPONSE: ADMIT

33. Registrant, or its related entities, knew of the existence of Petitioner prior to 1997.

RESPONSE: ADMIT

34. Registrant, or its related entities, knew of the existence of Petitioner prior to 1998.

RESPONSE: ADMIT

35. Registrant, or its related entities, knew of the existence of Petitioner prior to 1999.

RESPONSE: ADMIT

36. Registrant, or its related entities, knew of the existence of Petitioner prior to 2000.

RESPONSE: ADMIT

37. Registrant, or its related entities, knew of the existence of Petitioner prior to 2001.

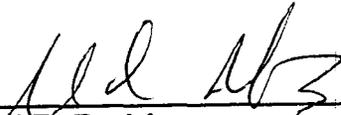
RESPONSE: ADMIT

38. Registrant, or its related entities, knew of the existence of Petitioner prior to 2002.

RESPONSE: ADMIT

Respectfully submitted,

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(956) 425-9639 (fax)

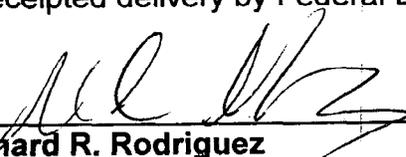


Richard R. Rodriguez
State Bar No. 17148527
Federal ID No. 16725

ATTORNEY IN CHARGE FOR
Registrant, **Fritas Encanto de Monterrey, S.A.
de C.V.**

Certificate of Service

I hereby certify that a copy of Registrant's Answers to Petitioner's First Request for Admissions was served on **Jesus Sanchelima, Esq.**, who is the attorney in charge for Petitioner, Conchita Foods, Inc., and whose address is 235 S.W. Le Jeune Rd., Miami, Florida 33134, (305) 447-1617, by courier receipted delivery by Federal Express on the 21st day of May, 2003.



Richard R. Rodriguez

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

Conchita Foods, Inc.
Petitioner,

Cancellation No. 32853

v.

Fritas Encanto de Monterrey, S.A. de C.V.
Registrant

**REGISTRANT'S ANSWERS TO
PETITIONER'S FIRST SET OF INTERROGATORIES**

To: Petitioner, **Conchita Foods, Inc.**, through its attorney of record, **Jesus Sanchelima, Esq.**, 235 S.W. Le Jeune Road, Miami, Florida 33134.

Registrant, **Fritas Encanto de Monterrey, S.A. de C.V.**, serves these answers to Petitioner, **Conchita Foods, Inc.** First Set of Interrogatories.

INTERROGATORY NO. 1:

What are the names and addresses of the persons with the most knowledge pertaining to the matters asserted in the answer to the petition for cancellation?

RESPONSE: **Hector Gonzalez Aguirre, 826 N. FM 509, Harlingen, TX 78550**
 Randy Seitz, 826 N. FM 509, Harlingen, Texas 78550

INTERROGATORY NO. 2:

Describe the business conducted by Registrant, including the time period Registrant has been engaged in such business, since the filing date of the Registration.

RESPONSE: **Production and distribution of snack food products engaged in such business since 1971.**

INTERROGATORY NO. 3:

Identify and describe the goods on which Registrant has used the designation CONCHITAS or any variation thereof.

RESPONSE: Corn chips

INTERROGATORY NO. 4:

- a) Set forth the date on which Registrant first decided to adopt the designation CONCHITAS or any variation thereof.

Response: August 22, 1996

- b) Describe the circumstances and method by which Registrant adopted the designation CONCHITAS or any variation thereof.

Response: My attorneys, Baker & McKenzie hired Thomson & Thomson to perform a search. A search was performed after we found the trademark had been cancelled and abandoned, we proceeded with our efforts.

- c) Set forth the reasons why any proposed marks or names, if any, were rejected.

Response: None were rejected.

- d) Identify all documents relating to Registrant's decision to select, adopt and/or use the designation CONCHITAS or any variation thereof.

Response: We chose the name "Conchitas" many years ago. We have no documentation per se to support such. We do have potato chip bags that state we have been selling corn chips since 1957.

INTERROGATORY NO. 5:

State whether any searches or investigations were conducted by Registrant, its attorneys, or any person on its behalf to determine whether the designation CONCHITAS was available for use and/or registration and, if so, identify each such search or investigation.

RESPONSE: Thomson & Thomson

INTERROGATORY NO. 6:

Identify all persons who were involved in, or participated in any way with, Registrant's decision to adopt and/or register or use the designation CONCHITAS.

**RESPONSE: Hector Gonzalez Aguirre
Baker & McKenzie
Diego Sada Santos**

INTERROGATORY NO. 7:

Identify each document referring or relating in any way to any application, registration or acquisition by Registrant of any mark containing or comprising the designation CONCHITAS or any variation thereof.

RESPONSE: Will supplement.

INTERROGATORY NO. 8:

Identify the approximate dollar amount of (a) Registrant's annual sales of goods or services rendered bearing the designation CONCHITAS or any variation thereof, and (b) Registrant's annual advertising and promotional expenditures for such goods or services.

RESPONSE: Will supplement.

INTERROGATORY NO. 9:

Identify each person who participated in the preparation of Registrant's responses to the foregoing interrogatories and who furnished any information in response thereof.

RESPONSE: **Randy Seitz**
 Hector Guadalupe Aguirre

Respectfully submitted,

LAW OFFICE OF RICHARD R. RODRIGUEZ
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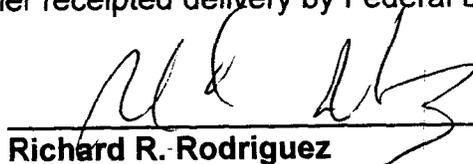


Richard R. Rodriguez
State Bar No. 17148527
Federal ID No. 16725

ATTORNEY IN CHARGE FOR
Registrant, **Fritas Encanto de Monterrey, S.A.**
de C.V.

Certificate of Service

I hereby certify that a copy of Registrant's Answers to Petitioner's First Set of Interrogatories was served on **Jesus Sanchelima, Esq.**, who is the attorney in charge for Petitioner, Conchita Foods, Inc., and whose address is 235 S.W. Le Jeune Rd., Miami, Florida 33134, (305) 447-1617, by courier receipted delivery by Federal Express on the 21st day of May, 2003.



Richard R. Rodriguez

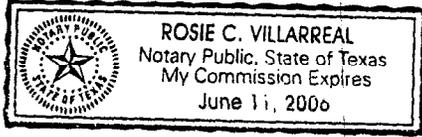
By: [Signature]
Name: [Signature]
Title: President

STATE OF Texas)
COUNTY OF Cameron)

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgment, personally appeared Randy P. Seitz who, being to me well known, deposes and says that he/she is the President of Registrant, that he/she has read the foregoing Interrogatories and his/her Answers thereto, that the same therein are true and correct to the best of his/her knowledge and he/she has executed the same on behalf of the corporation.

SWORN TO AND SUBSCRIBED before me, this 21st day of May, 2003.

[Signature]
Notary Public, State of Texas



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

Conchita Foods, Inc.
Petitioner,

Cancellation No. 32853

v.

Fritas Encanto de Monterrey, S.A. de C.V.
Registrant

**REGISTRANT'S RESPONSES TO
PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

To: Petitioner, **Conchita Foods, Inc.**, through its attorney of record, **Jesus Sanchelima, Esq.**, 235 S.W. Le Jeune Road, Miami, Florida 33134.

Registrant, **Fritas Encanto de Monterrey, S.A. de C.V.**, serves these responses to Petitioner, **Conchita Foods, Inc.** First Request for Production of Documents.

1. All documents² evidencing purchases or sales of goods, publishings and advertisements of services/goods bearing the mark "CONCHITAS" by the Registrant, including, without limitation to, invoices, purchase orders, memorandums, letters, checks, signs, menus, scripts and story boards for radio and television advertising as well as all print media advertising.

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

2. All documents which contain a summary of expenses on a year-to-year or life-of-the-company basis for the advertising, which uses the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

3. All correspondence, cancelled checks, invoices, receipts, drawings, drafts of copy, final copy, list of placement in media of all advertisements created for Registrant's corporation and relating to the use of the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

4. All brochures and other promotional materials and documents concerning the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

5. All documents, including specifically, but without limitation to, the corporate books or records of Registrant establishing the dollar sales for the mark "CONCHITAS", since it started operating.

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

6. All documents concerning the adoption, creation, and development of the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

7. Any and all documents relating to trademark, service mark, or trade name searches conducted by, or on behalf of, Registrant, concerning the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

8. All documents, including communications, investigations, searches, studies, focus groups, surveys, inquiries and records of meetings, concerning Registrant's decision whether to register the mark "CONCHITAS".

RESPONSE: Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement

9. All documents, including but not limited to, canceled checks, invoices, and receipts, concerning Registrant's first sale of each product bearing the mark "CONCHITAS".

RESPONSE: **Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement**

10. All documents concerning the derivation of the mark "CONCHITAS," as well as the commercial connotation intended to be created thereby.

RESPONSE: **Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement**

11. All documents concerning Registrant's knowledge of Petitioner's adoption and use in any way of the mark "CONCHITAS", or concerning any actual, proposed, or considered actions to be taken by Registrant to prevent such use.

RESPONSE: **Registrant has not been given a sufficient amount of time for compliance with the request. Registrant will supplement**

Respectfully submitted,

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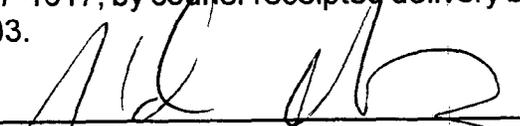


Richard R. Rodriguez
State Bar No. 17148527
Federal ID No. 16725

ATTORNEY IN CHARGE FOR
Registrant, **Fritas Encanto de Monterrey, S.A.
de C.V.**

Certificate of Service

I hereby certify that a copy of Registrant's Responses to Petitioner's First Request For Production of Documents was served on **Jesus Sanchelima, Esq.**, who is the attorney in charge for Petitioner, Conchita Foods, Inc., and whose address is 235 S.W. Le Jeune Rd., Miami, Florida 33134, (305) 447-1617, by courier receipted delivery by Federal Express on the 21st day of May, 2003.



Richard R. Rodriguez