

ESTTA Tracking number: **ESTTA344441**

Filing date: **04/28/2010**

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

Proceeding	92042082
Party	Defendant International Gold Star Trading Corp.
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Date	04/28/2010
Attachments	G. Pincow Transcript vol. 2.pdf (49 pages)(77580 bytes) Registrant Ex. 129.pdf (1 page)(22020 bytes) Registrant Ex. 130.pdf (1 page)(318133 bytes) Registrant Ex. 131.pdf (1 page)(362650 bytes)

1
2 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
3 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
4

5 FOUR SEASONS DAIRY, INC.,)
6) Cancellation No.
7 Petitioner,) 92/042,082
8)
9 vs.) Mark: Babushka's Recipe
10)
11 INTERNATIONAL GOLD STAR) Reg. No. 2,479,287
12 TRADING CORP.,)
13)
14 Registrant.)
15 -----)

16
17 VOLUME II

18 CONTINUED CONFIDENTIAL EXAMINATION OF

19 GALINA PINCOW

20 New York, New York

21 Friday, October 17, 2008

22
23 Reported by:

24 KRISTIN KOCH, RPR, RMR, CRR, CLR

25 JOB NO. 19190b

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October 17, 2008
12:12 p.m.

Continued Confidential Deposition of
GALINA PINCOW, held at the offices of
Cohen, Pontani, Lieberman & Pavane, LLP,
551 Fifth Avenue, New York, New York,
before Kristin Koch, a Registered
Professional Reporter, Registered Merit
Reporter, Certified Realtime Reporter,
Certified Livenote Reporter and Notary
Public of the State of New York.

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A P P E A R A N C E S :

SAMUEL FRIEDMAN, ESQ.

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BY: ROGER S. THOMPSON, ESQ.

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G A L I N A P I N C O W,

resumed as a witness, having been duly sworn
by a Notary Public, was examined and
testified as follows:

CONTINUED EXAMINATION BY

MR. THOMPSON:

Q. Miss Pincow, we are just continuing
the direct examination for a few minutes before
I turn you over to Mr. Friedman.

First I will ask you, as I always
like to ask witnesses, has anything happened
since you last testified that would change
anything that you have testified to during the
first portion of your testimony?

A. No.

Q. Something that's come up in
discussions in this case relates to the item
numbers assigned to various products and you
have been present for much of the testimony, so
I believe you are familiar with that issue.

Do you have any knowledge of how
item numbers were assigned to -- and I will ask
specifically -- the farmer cheese product sold
under the Babushka's Recipe name?

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2 A. Up until the year 2001 the item
3 numbers that were assigned for the system's
4 purposes, being keeping the inventory of these
5 products or using the item numbers in
6 generation and production of invoices, the
7 numbers or should I say the item codes were
8 created on the whim. Some of them make sense.
9 For example, some of the dairy products, as you
10 can see from the various exhibits, referring to
11 the invoices, start with letter M for milk
12 products. You will find some of the items just
13 are an abbreviation of the various descriptions
14 that contain the actual name of the product.
15 There was really no rhyme and reason to why
16 something had MG05 or MG16 or anything like
17 that. But starting with the year 2001, I
18 believe it may have been late 2000, we decided
19 to make sense of our item coding system and we
20 switched to a five-digit item code. So, for
21 example, everything that was dairy product
22 started with a digit 4. Anything that was,
23 let's say, deli meat product started with
24 digit 9. And you could see the progression of
25 the assignment of these codes throughout the

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2 various invoices that have been presented as
3 exhibits. By invoices I mean invoices
4 generated by Gold Star. That's it.

5 Q. First I will ask you if you would be
6 able to look at the documents that had been
7 marked as Exhibit 124. I will ask you if you
8 could just take a moment to look at that.

9 A. I am looking at an invoice generated
10 on 1-15-1999. The customer is Health Food
11 International in Philadelphia, Pennsylvania and
12 this is an invoice number 111499.

13 Q. And on that invoice dated in January
14 of 1999 the product number for the granny's
15 cheese -- farmer's cheese, granny's recipe, is
16 MG05; is that correct?

17 A. That's correct.

18 Q. Is that the same number that is used
19 throughout all of the invoices in Exhibit 124?

20 A. I could safely say yes.

21 Q. I will ask you to look at all of the
22 invoices and then answer.

23 A. Okay.

24 (Document review.)

25 A. The answer is yes, except for the

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2 last page of the exhibit which has an invoice
3 date 5-15-01, invoice number 185530. In this
4 particular case the customer is K-A-L-I-N-K-A
5 Delicatessen in Florida and the item which is
6 referred to as farmer's cheese, granny's recipe
7 is now being listed under item code 41501.

8 Q. Does that in any way refresh your
9 recollection of when the change-over from the
10 one type of item number to the other type took
11 place?

12 A. I would say that the change occurred
13 in 2001. The actual change in the system
14 occurred in 2001 with the purchase of a new
15 version of Synchronics software, but I'm also
16 certain that the preparation for the assignment
17 of these numbers took place long before that,
18 because we had even at that point several
19 thousand items that needed to be assigned a new
20 digit code.

21 Q. I will ask you to take a look at
22 Exhibit 125.

23 A. Okay.

24 Q. And could you state again what
25 Exhibit 125 is?

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2 A. Exhibit 125 is a computerized
3 printout report from Gold Star 2001 Synchronics
4 version, and it describes the quantity sold
5 starting with the year 2001 for a particular
6 item number, which is 38001, which is Babushka
7 Tushonka or roast beef.

8 Q. In that exhibit do you see any pages
9 which deal with the sale of farmer cheese,
10 Babushka's?

11 A. Yes, I do.

12 Q. What page is that?

13 A. That would be page 0025, that's
14 GOLD 0025.

15 Q. Is it on any other page?

16 A. There is also a page GOLD 0026.

17 Q. And does that indicate what the item
18 number was for the farmer cheese, Babushka's?

19 A. Yes, it does, and that would be item
20 number 41501.

21 Q. And does this indicate when -- do
22 these computer records show the earliest sale
23 of a product with that item number?

24 MR. FRIEDMAN: I am just --

25 A. I am going to object to that.

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2 MR. FRIEDMAN: I don't know what you
3 mean.

4 MR. THOMPSON: Okay.

5 Q. With respect to page 0025 --

6 A. Since this is a compilation of our
7 sales starting with January 2001, the quantity
8 sold indicated for this product starts with the
9 numbers that were sold in January 2001 and end
10 with the numbers that were sold by December
11 31st, 2006.

12 Q. And those are the products that are
13 sold under the item number 41501?

14 A. That's correct.

15 Q. Do you remember when you first
16 started to have a catalog put together for Gold
17 Star?

18 A. The first catalog that we put
19 together, the actual compilation of the various
20 images and products for the catalog for Gold
21 Star began as early as 1998 and it went for
22 like a year and a half, and then it was finally
23 printed in the year 2000, I believe, 2001.

24 MR. FRIEDMAN: The witness is
25 holding a document in her hand and looking

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2 at it.

3 THE WITNESS: It's the one that --

4 MR. THOMPSON: She is still looking
5 at 125.

6 MR. FRIEDMAN: Did that have any
7 bearing on your testimony concerning the
8 catalog?

9 THE WITNESS: Not at all.

10 MR. FRIEDMAN: Would you mind just
11 reading me back that last answer.

12 (Record read.)

13 MR. THOMPSON: I will show you a
14 document which I will ask to have marked
15 as, I believe, 129.

16 (Registrant Exhibit 129, e-mail
17 dated November 13, 2000, Bates stamped
18 GOLD 0017, marked for identification.)

19 Q. For the record, it's a single-page
20 document bearing Bates number GOLD 0017. I
21 will ask you to take a moment to look at it and
22 tell me if you recognize it.

23 A. I do.

24 Q. And what is it?

25 A. This is a copy of an e-mail that was

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2 sent by Izabella Olszewski to Galina Pincow,
3 International Gold Star, that is me, myself.
4 It was sent to me on November 13, 2000 and the
5 subject of the matter was catalog, specifically
6 dairy products.

7 Q. I will point out at the bottom there
8 is a signature, although it says it's from
9 Izabella, but it says "regards, Robert." Who
10 is Robert?

11 A. Robert is the husband of Izabella
12 Olszewski. It's a husband and wife team,
13 Polish entrepreneurs, were involved in various
14 aspects of operations, imports, distribution.

15 Q. Okay. And what connection did they
16 have to Gold Star?

17 A. My husband has known Robert
18 Olszewski for several dozen years and he has
19 done trading business with him, specifically
20 trading in products of Polish -- food products
21 of Polish origin. When my husband told Robert
22 Olszewski that he is interested in printing a
23 catalog, Robert suggested that it be -- Robert
24 Olszewski suggested that it be printed in
25 Poland, it would be a less expensive

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2 proposition, and there are various designers in
3 Poland that could do the job of putting the
4 catalog together at a lesser price.

5 Q. And does the date of November 13,
6 2000 in any way help you place the date on
7 which the catalog was finally produced?

8 A. I would think that the catalog was
9 finally produced by the end of the year 2000,
10 maybe the beginning of the year 2001.

11 Q. Now, we had previously seen a
12 picture of a product sold by Gold Star under
13 the name Old Salzberg, which is Petitioner's
14 Exhibit 203. Can you identify what Exhibit 203
15 shows?

16 A. Exhibit 203 is a copy of the Old
17 Salzberg label that is used as the private
18 label by Gold Star on the product that is
19 manufactured by Bunker Hill Cheese.

20 Q. And for the record, Exhibit 203 is a
21 black and white copy; is that right?

22 A. Yes, it is.

23 MR. THOMPSON: I will ask the
24 reporter to mark as Exhibit 130 a document.
25 After she marks it I will ask you to take a

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2 look at it.

3 (Registrant Exhibit 130, color copy
4 Old Salzberg Semisoft Cheese, Bates stamped
5 GOLD 0313, marked for identification.)

6 MR. FRIEDMAN: I just want to note
7 my objection to the production of documents
8 not previously exchanged during the
9 discovery phase.

10 MR. THOMPSON: With respect to this,
11 I am providing a color copy of a document
12 you had used during your examination
13 earlier of 203. So I am trying to get a
14 better copy of the exhibit that's already
15 in evidence.

16 MR. FRIEDMAN: Very well.

17 Q. Is Exhibit 130 an accurate depiction
18 of the label sold for Old Salzberg cheese by
19 Gold Star today?

20 A. Yes, it is.

21 MR. THOMPSON: I will have this
22 marked as Exhibit 131.

23 (Registrant Exhibit 131, Finlandia
24 Lappi Part Skim Milk Semisoft Cheese, Bates
25 stamped GOLD 0312, marked for

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2 identification.)

3 THE WITNESS: I have looked at the
4 label.

5 MR. FRIEDMAN: I repeat the
6 objection that I gave before to materials
7 not exchanged during discovery with respect
8 to 131 and that the Bates stamp number 312
9 was only produced today for the first time.

10 MR. THOMPSON: Yes, it was.

11 Q. Have you had a chance to look at
12 this document?

13 A. Yes, I am looking at the document.

14 Q. Could you please identify what this
15 shows?

16 A. This is a label that is affixed to a
17 product we call Lappi and basically this is a
18 product of Finlandia Cheese Company and the
19 name Lappi is a specific -- refers to a
20 specific type of product with a Finnish origin.

21 Q. It's a product that is sold by
22 International Gold Star?

23 A. Yes, it is.

24 Q. How long have you been selling this
25 product?

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2 A. To the best of my knowledge, at
3 least since the time I started working in Gold
4 Star, which is June of 1995.

5 Q. Do you have any personal knowledge
6 of whether this product had been sold before
7 the time you were at Gold Star?

8 A. To the best of my knowledge, this
9 product has been sold throughout the United
10 States, as I have seen it in various gourmet
11 shops in New York area and in Chicago area.
12 It's a product that is extremely popular with
13 ethnic markets and specialty food stores.

14 Q. Is Lappi a trademark belonging to
15 Gold Star?

16 A. No.

17 Q. But this is a product that is sold
18 by Gold Star; right?

19 A. Yes, it is.

20 MR. THOMPSON: I have no further
21 questions of this witness. I'll leave it
22 to you, Mr. Friedman, if you want to start
23 now and then break for lunch or how you
24 want to handle your cross-examination
25 that's most effective for you.

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2 MR. FRIEDMAN: We have half an hour.

3 Let's --

4 MR. THOMPSON: I just want to give
5 you your choice.

6 MR. FRIEDMAN: Thank you. I
7 appreciate it.

8 EXAMINATION BY

9 MR. FRIEDMAN:

10 Q. Ms. Pincow, my name is Samuel
11 Friedman. I represent Four Seasons Dairy.

12 Mr. Bartolomeo testified earlier
13 today and you were present. There was an event
14 on April 7, 1998 regarding which Mr. Bartolomeo
15 testified.

16 What is it that happened on or about
17 April 7, 1998 with respect to dealings between
18 International Gold Star and Jes Printing?

19 A. I am certain that prior to April 7,
20 1998 there were labels or, should I say,
21 designs of labels provided to Jes Labels at
22 that time, and that is how we had the vendor
23 that Mr. Bartolomeo referred to as Gem
24 Printing, we have had for many, many years in
25 our computer system listed as Jes Labels and

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2 what has happened is Jes Labels was provided
3 with the design of Babushka Recipe labels that
4 we were to use for different types of cheeses.

5 Q. Can you give me a time frame on that
6 with respect to providing the designs of the
7 labels to Jes Printers?

8 A. I would say that it was somewhere
9 between the beginning of 1998 and April 7,
10 1998.

11 Q. What is it that happened on April 7,
12 1998, if you know?

13 A. It appears from the records that I
14 have seen provided by Mr. Bartolomeo that on
15 April 7, 1998 an order has been given to Jes
16 Labels to print those labels for four different
17 products in two different sizes.

18 Q. Do you have any independent
19 recollection of that apart from the records
20 provided by Mr. Bartolomeo?

21 A. I do have independent recollection
22 of the products that were in what we call a 7
23 pound form. I was surprised that I didn't
24 remember prior that I also created smaller
25 labels for the 3 pound version of the same

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2 cheeses with the Babushka label.

3 Q. What are you referring to now?

4 A. If you look -- Mr. Bartolomeo
5 testified that the reason we have two sets of
6 labels with the babushka with four different
7 flavors is because there were two different
8 sizes for the product. So the one size being
9 what he called butt, I believe --

10 Q. You are talking about size of label?

11 A. Right.

12 Q. As opposed to size of product?

13 A. Well, the size of label is what
14 dictated the size of product or vice versa, if
15 you wish. For the 7 pound log or loaf, if you
16 wish, we can call it either way, we made a
17 larger rectangular label, and for the 3 pound
18 round we made a smaller label. But there were
19 four flavors of cheeses that these Babushka
20 Recipe labels were applied to.

21 Q. I'm sorry, there were four --

22 A. Flavors, and two different sizes.

23 Q. When did Mr. Bartolomeo send to you
24 the documents that are contained within
25 Exhibit P 206?

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2 A. Based on his testimony and based on
3 the date in the letter that he provided, I
4 assume it was May 2007.

5 Q. And I would note that those records
6 were first produced on Tuesday of this week.
7 Why was there a delay in the production of the
8 records?

9 A. I don't have an answer for that.

10 Q. But you had those records in your
11 possession since May of 2007?

12 A. It appears to be so.

13 MR. THOMPSON: I would point out I
14 believe I e-mailed you the first copy on
15 Friday before. Not that that matters for
16 the point of your question, but just to be
17 as accurate as possible.

18 MR. FRIEDMAN: That's correct, there
19 was an e-mail. I think there was some
20 difficulty with respect to the e-mail.

21 MR. THOMPSON: What you had the
22 opportunity to open, I don't know. The
23 other documents that were attached to the
24 e-mail were produced in a different format
25 than Mr. Bartolomeo, so I don't know if you

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2 had problems opening all of them, but there
3 was at least an electronic communication of
4 some of those documents. As I say, for the
5 point you are making I don't think it
6 matters, but just to be accurate.

7 MR. FRIEDMAN: Okay. I am just
8 looking for my color copy of P 206.

9 Q. Would the witness please get the
10 original P 206.

11 A. Okay, I have it.

12 Q. Mr. Bartolomeo testified that what
13 he sent to you only went through Bates stamped
14 numbers ending at 212, GOLD 212. So it would
15 be -- he sent to you Bates stamp numbers GOLD
16 0204 --

17 A. Okay.

18 Q. -- containing GOLD 0206 through GOLD
19 0212.

20 A. Okay.

21 Q. There was a separate mailing to you
22 of GOLD 0205 with additional documents;
23 correct?

24 A. Correct.

25 Q. And the documents that are contained

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2 with GOLD 0205 you also received in or about
3 May of 2007; correct?

4 A. I would say probably so.

5 Q. And they also were not turned
6 over -- I withdraw that.

7 MR. THOMPSON: Thank you.

8 Q. Now, I'd like you to turn your
9 attention to within P 206 GOLD 0213. Could you
10 identify what that is?

11 A. The top appears to be the UPC label
12 for one of my dairy products. You know, just
13 from looking at the number, I can't immediately
14 identify it, but on the bottom it says
15 "Babushka vegetable loaf" and it has a date of
16 12-29-97.

17 Q. Who created this document?

18 MR. THOMPSON: For clarity, are you
19 asking about the physical piece of paper or
20 the information that is contained in that?

21 MR. FRIEDMAN: The information that
22 is photocopied on the upper left-hand side
23 of the piece of paper.

24 A. I believe this was created by Irina
25 Lubenskaya.

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2 Q. So you had Irina creating UPC codes?

3 A. I believe that this is not a
4 creation of a UPC code, but rather referral to
5 a file that had to do with the creation of the
6 label.

7 Q. And what label are you referring to?

8 A. That would be the Babushka vegetable
9 loaf label, and if we go back to
10 Mr. Bartolomeo's labels and we look at the UPC
11 codes, under GOLD 0207 you will see that there
12 is a label vegetable yogurt cheese with
13 specifically the same bar code, which would be
14 2114342023.

15 Q. Now, when did you receive the
16 information contained in GOLD 0213?

17 MR. THOMPSON: Objection. You
18 haven't established that she actually
19 received that.

20 MR. FRIEDMAN: Okay.

21 Q. Did you actually receive the
22 information that's set forth in GOLD 0213?

23 A. This information was actually
24 received by my son, James Pincow, who spoke to
25 Irina Lubenskaya concerning this matter.

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2 Q. When did your son, James Pincow,
3 receive it?

4 MR. THOMPSON: I object to that.

5 You haven't established she has any way of
6 knowing when he received it.

7 Q. Do you know when he received it?

8 A. I don't know the exact date.

9 Q. Do you know the approximate time
10 frame?

11 A. This year.

12 Q. "This year" meaning 2008?

13 A. 2008.

14 Q. In what manner was this information
15 transmitted to your son, James Pincow?

16 A. I'm not certain.

17 Q. And who transmitted it to your son?

18 A. Irina Lubenskaya.

19 Q. Now, would the same be true of the
20 following pages containing UPC codes?

21 A. Yes.

22 Q. So the same would be true for all of
23 the pages with Bates stamp numbers GOLD 0213 to
24 GOLD 0223?

25 A. Yes.

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2 Q. Do you know why Irina Lubenskaya
3 would have transmitted these documents to your
4 son James earlier this year?

5 A. It was upon his request to produce
6 documents for the case that we are involved in.

7 Q. And do you know what your son James
8 did with these documents after receiving them
9 from Irina Lubenskaya?

10 A. I would assume that he submitted
11 them to Roger Thompson.

12 Q. Now, directing your attention to
13 GOLD 0224, what is that?

14 A. This is the draft of the Babushka
15 Recipe in black and white without, you know,
16 having the words "Babushka" and without having
17 the name of the product, just the actual design
18 of the Babushka image with the nostalgic
19 Russian design around it.

20 Q. Who created this design, if you
21 know?

22 A. Irina Lubenskaya.

23 Q. When did she create it?

24 A. I would say it had to be created in
25 the year 1997.

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2 Q. On what basis do you believe that?

3 A. On the basis of my request to create
4 labels of nostalgic Russian origin with the
5 concept of using the name Babushka for the
6 product.

7 Q. I believe you testified yesterday
8 that Irina was working freelance for you when
9 she created this design; is that correct?

10 A. Yes.

11 Q. What company was Irina working for
12 at that time?

13 A. I believe the company was Cosmos
14 Communications.

15 Q. What is Cosmos Communications?

16 A. It's a company that produces
17 catalogs, marketing materials, flyers,
18 postcards, calendars, and things of that
19 nature.

20 Q. Where are they located?

21 A. At the time when we were introduced
22 to Cosmos, they were, I believe, in Long Island
23 City.

24 Q. Are they still in existence?

25 A. I couldn't answer that.

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2 Q. Why did you ask that she do it
3 freelance rather than through Cosmos
4 Communications?

5 A. Because my involvement with Irina
6 had to do with many different topics concerning
7 Russianizing the item, and while working at
8 Cosmos she was involved mainly with large
9 commercial jobs, so this would be easier for me
10 to work with her on privately.

11 Q. Did she use the equipment at Cosmos
12 for purposes of creating these designs, if you
13 know?

14 A. I would have no knowledge.

15 Q. Was Cosmos aware, as far as you
16 know, that Irina was doing this work for you
17 freelance?

18 A. I wouldn't know.

19 Q. The very next page, GOLD 0225, what
20 is that?

21 A. This is a label that depicts
22 babushka with the nostalgic Russian design and
23 the words "Babushka's Recipe" in Russian,
24 Babushkin Retsept, also depicting Gold Star
25 logo at the very top of the label. The label

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2 is in three colors, being black, warm red and
3 brown.

4 Q. And who added these colors to
5 Miss Lubenskaya's design?

6 A. She did.

7 Q. And who put in the lettering
8 "Babushka's Recipe" at the top?

9 A. She did.

10 Q. And who put in the lettering in
11 Cyrillic at the bottom?

12 A. She did.

13 Q. Did she later add the product names?

14 A. If she did, it wouldn't be straight
15 on the copy. She many times provides me with
16 the fonts, different Cyrillic fonts that I use
17 in a variety of labels.

18 Q. When you say that you use, who
19 actually uses these fonts with respect to the
20 labels?

21 A. If we create a label and I want a
22 certain style to the label, I will ask -- I
23 will describe the style to Irina and she will
24 either create herself or find an appropriate
25 Cyrillic font on the Internet and then provide

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2 it to me. At that point I will use that file
3 with that font for further usage by the
4 printer.

5 Q. And are you personally involved in
6 the designing of the labels?

7 A. Only from a creation point. Not
8 from the actual drawing and styling point.

9 Q. Could you please take a look at
10 Exhibit P 207. Do you recognize P 207?

11 A. Only as part of this case. It was
12 evidence printed for this case.

13 Q. Now, this contains an e-mail
14 from Irina Lubenskaya to J Pincow,
15 JPincow@GoldStarUSA.com.

16 A. Okay.

17 Q. Does that refer to your son, James
18 Pincow?

19 A. Yes, it does.

20 Q. Is that James Pincow's e-mail
21 address?

22 A. Yes.

23 Q. And what is the date of transmission
24 of this e-mail?

25 A. May 22nd, 2007.

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2 Q. Okay. And in it Miss Lubenskaya
3 writes that she found the Babushka files.

4 A. Correct.

5 Q. Is this where Irina Lubenskaya
6 transmitted to James the documents that are in
7 P 206?

8 A. I believe it is.

9 Q. Is it fair to say then that the
10 documents were transmitted to James, your son,
11 on May 22, 2007?

12 A. Yes, it's fair to say that.

13 MR. THOMPSON: I object as not
14 necessarily having -- she does not have a
15 basis for stating what was actually sent at
16 that point or not. She is presuming, I
17 presume, based on what's contained in the
18 information.

19 Q. Did you have any discussions with
20 James after you asked him to contact Irina
21 Lubenskaya to search for documents?

22 A. Yes, I did.

23 Q. Did you discuss with James that he
24 had received documents from Irina Lubenskaya?

25 A. No.

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2 Q. What were your conversations then
3 with James after having asked him to collect
4 documents from Irina Lubenskaya?

5 A. He confirmed to me that he received
6 information from Irina Lubenskaya.

7 Q. Did he tell you what he did with
8 that information?

9 A. No.

10 Q. When, if ever, did you obtain the
11 information?

12 A. As I said before, I've seen the
13 information for the first time during the
14 deposition.

15 Q. I am going to direct your attention
16 to the very top of the first page of P 207
17 underneath where it says "Read Message" from
18 Galina Pincow to James Pincow forwarding files
19 from 1997.

20 A. I would like to clarify this to you.

21 Q. Please do.

22 A. If you read on top, it says "Read
23 Message - SmarterMail."

24 Q. Yes.

25 A. That means that this file did not go

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2 directly into Galina Pincow mailbox. It went
3 into a file folder which could be accessed
4 through any computer by not -- you know, if one
5 knows the password for Galina at
6 GoldStarUSA.com. What this means, it did not
7 go into my direct e-mail file and what it also
8 means that James most likely read it from the
9 SmarterMail folder. Is that clear?

10 Q. Actually, it's not. I still don't
11 understand the importance of at the top left
12 where it says from Galina Pincow to J Pincow
13 forwarding files, then it lists attachments.

14 A. If I am not in the office and
15 someone needs to open my files, they could do
16 so if they know my password and they do not
17 necessarily open my immediate e-mail, they may
18 open it through SmarterMail, which to get there
19 you go WW mail Gold Star -- I am not going to
20 give you my password, but the bottom line is
21 this indicates that I was not the one that
22 opened the e-mail. It could have been James if
23 I were away. It could have been anyone else in
24 my office that knows my password for
25 SmarterMail.

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2 Q. But this indicates that this was in
3 your e-mail and accessible to you since at
4 least May 24, 2007?

5 A. Yes, it was in my general mailbox.

6 Q. And accessible to you?

7 A. If I were to choose to look at it.

8 Q. And accessible to your employees?

9 A. Accessible to at least two of my
10 employees.

11 Q. Including your son James?

12 A. Including my son James.

13 Q. To whom you delegated the job of
14 collecting documents for this litigation?

15 A. To whom I delegated the
16 responsibility for collecting documents from
17 Irina Lubenskaya specifically.

18 Q. Was it solely limited to Irina
19 Lubenskaya?

20 A. Yes, it was.

21 Q. And why did you delegate that
22 only -- that to James?

23 A. Because it seems to me that in that
24 period of time I must have been either on a
25 business trip or away from the office and we

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2 needed to start collecting the documentation
3 and James had that responsibility.

4 Q. Well, I note that May 24, 2007 is
5 the same date as the date on one of the letters
6 from Mr. Bartolomeo.

7 A. Okay.

8 Q. And Mr. Bartolomeo transmitted those
9 documents directly to you, if I understand
10 correctly.

11 A. Okay. So Mr. Bartolomeo testified
12 that he sent the documents to me either by UPS
13 or FedEx or faxed them to my office. That does
14 not mean that I was there physically to receive
15 them.

16 Q. Now, can you identify the page
17 bearing Bates stamp number GOLD 0008?

18 A. Okay.

19 Q. What is this?

20 A. To me it appears as a screen
21 printout of the various computer files.

22 Q. And when, if ever, did you receive
23 this document?

24 A. I did not receive this document
25 personally.

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2 Q. Was this sent to James?

3 A. Yes.

4 Q. And did James receive all of the
5 files represented in this document?

6 A. I don't know.

7 Q. Are these the files for the
8 documents, the UPC code documents, in
9 Exhibit P 206?

10 A. You are asking me to make a
11 judgement call?

12 Q. I am asking if you know.

13 A. I don't know, but I assume they are.

14 Q. Are there additional documents
15 represented in GOLD 0008 that are not contained
16 in P 206?

17 A. Honestly, I don't know.

18 Q. The UPC codes that are contained in
19 the documents within P 206, the code numbers
20 themselves, did Gold Star provide those numbers
21 to Irina Lubenskaya?

22 A. Yes.

23 Q. So was her involvement then limited
24 to -- as far as you know, what was her
25 involvement with respect to the UPC codes?

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2 A. Only affixing them on the labels.

3 Q. Okay. And when you say "affixing
4 them on the labels," within P 206 we see some
5 labels with UPC codes.

6 A. Right.

7 Q. How did the UPC code come to be
8 affixed upon the label?

9 A. When the designer puts a label
10 together and the supplier or manufacturing
11 provides them with the UPC code number, they
12 will then use that UPC number as a part of the
13 design.

14 Q. Now, these UPC codes that we see
15 on the labels in let's say, for example,
16 GOLD 0207 --

17 MR. THOMPSON: Can you tell her what
18 exhibit that's part of?

19 MR. FRIEDMAN: I'm sorry. P 206.

20 Q. Now, I see on the left side there is
21 a label for vegetable yogurt cheese and that
22 has a UPC code ending in 42023.

23 A. Okay.

24 Q. My question to you is did that UPC
25 code for vegetable yogurt cheese ever change

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2 from this number to another number?

3 A. No.

4 Q. I ask you the same question with
5 respect to the label on the right for smoked
6 yogurt cheese with the number ending in 42022.

7 A. It hasn't changed for this
8 particular label.

9 Q. And for this particular product, the
10 smoked yogurt cheese?

11 A. Clarification.

12 Q. Yes.

13 A. As we already know and I testified
14 that there were two sets of labels because of
15 the two various sizes of the product, so for a
16 7 pound loaf of smoked yogurt cheese the UPC
17 code is ending with 42022. If you refer to the
18 same product, smoked yogurt cheese, with the
19 label that was created for a 3 pound wheel, the
20 UPC code is changed to 42012.

21 Q. And those numbers happen to be
22 consecutive -- no, they are not.

23 A. They are not consecutive. One is
24 23, the other one is 12.

25 Q. Is that for the same product?

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2 A. It's for the same product but in
3 different size. Same flavor product, but two
4 different sizes.

5 Q. Does Gold Star follow the same
6 policy with respect to UPC codes for all of its
7 dairy products?

8 MR. THOMPSON: Objection to form.
9 What policy are you referring to?

10 Q. Is there an example in P 206 of the
11 UPC code ending in 42012, or are you just
12 testifying by memory?

13 A. Okay. Could you repeat your
14 question again.

15 MR. FRIEDMAN: Could you read it
16 back, please.

17 (Record read.)

18 A. Well, P 206 is handwritten notes
19 with the order. There is no UPC codes
20 listed --

21 MR. THOMPSON: I'm sorry, P 206
22 refers to the entire exhibit, not just page
23 206.

24 A. I'm sorry. I take it back. Can you
25 repeat the question again.

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2 (Record read.)

3 A. There is an example in this exhibit
4 for an item 42012, which is smoked yogurt
5 cheese. The label is on GOLD 0211.

6 Q. And what was the UPC code for
7 Havarti yogurt cheese?

8 A. I believe it's 42025.

9 Q. Has that number ever changed for
10 International Gold Star's yogurt Havarti
11 cheese?

12 A. To the best of my knowledge, it's
13 remained the same.

14 Q. Is there an additional UPC number
15 for yogurt Havarti cheese that may come in a
16 different size?

17 A. From Bunker Hill or from any other
18 supplier?

19 Q. Let's say from Bunker Hill.

20 A. From Bunker Hill we only get one
21 type of yogurt cheese in Havarti style and
22 that's the 7 pound loaf. If I were to order it
23 in a different pack size, I would create a new
24 UPC code for that item.

25 MR. FRIEDMAN: Could you read back

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2 that last answer.

3 (Record read.)

4 Q. Now, you say if you were to order it
5 in a different size. My question to you is do
6 you order it in a different size?

7 A. No, not the Havarti.

8 Q. Not the yogurt Havarti manufactured
9 by Bunker Hill?

10 A. Correct.

11 Q. Does anybody else manufacture
12 Havarti cheese for International Gold Star?

13 A. Yes.

14 Q. Who is that?

15 A. The vendor is, I believe, called --
16 I can't remember the name of the vendor, but we
17 sell the product under label called Canadian
18 Premium Havarti.

19 Q. Is there anybody other than Bunker
20 Hill that manufactures the Havarti cheese that
21 International Gold Star sells under the
22 Babushka's Recipe label?

23 A. No.

24 Q. Has there ever been another
25 manufacturer for --

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2 A. Havarti cheese under Babushka label,
3 no.

4 Q. It's always been Bunker Hill?

5 A. Yes.

6 Q. Does International Gold Star package
7 cheeses?

8 A. No.

9 Q. Has it ever packaged cheeses?

10 A. No.

11 Q. Does it have a license to package
12 cheeses?

13 A. No.

14 Q. Does International Gold Star affix
15 any Heini's labels to its yogurt cheeses?

16 A. No.

17 Q. Has it ever?

18 A. Never.

19 Q. Has International Gold Star ever
20 affixed any Bunker Hill labels to cheeses?

21 A. No.

22 Q. You testified earlier today that the
23 catalog is manufactured or at least your first
24 catalog was manufactured in Poland.

25 A. Correct.

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2 Q. Do you continue to use the same
3 manufacturer today?

4 A. No.

5 Q. What is the name of the manufacturer
6 in Poland of the catalog that you --

7 A. Current?

8 Q. Spell that.

9 A. The current one?

10 Q. No, the one in Poland that you
11 testified to.

12 A. It was given to two private
13 individuals, which would be Izabella and Robert
14 Olszewski.

15 Q. So it was those individuals that
16 actually manufactured the catalog?

17 A. Right. They subcontracted the
18 printer and designer in Poland to do the job.

19 Q. Does International Gold Star
20 continue to use that printer and designer in
21 Poland that the Olszewskis licensed and
22 subcontracted out to?

23 A. No.

24 Q. Did International Gold Star use the
25 Olszewskis again for purposes of manufacturing

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2 a catalog?

3 A. No.

4 Q. It was only one time?

5 A. Only one time.

6 Q. And do you know which catalog that
7 is, of the many catalogs that have been
8 produced?

9 A. Should I describe it or should I
10 pull it out?

11 Q. Whatever you prefer.

12 A. I found it. It's Exhibit 121.

13 Q. R 121 is the same as this deposition
14 exhibit R 4 in color; is that right?

15 A. Yes, that's right.

16 Q. So this catalog that you now have
17 the original color catalog in front of you,
18 this is the first catalog manufactured by Gold
19 Star -- I'm sorry -- produced for Gold Star?

20 A. Correct.

21 Q. And it was produced in early 2001, I
22 believe you said, or late 2000?

23 A. Late 2000.

24 Q. There is a price list that has been
25 produced that is 2001, price list of 2001 to

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2 2002.

3 A. This one.

4 Q. Let's just identify the exhibit on
5 it.

6 A. R 122.

7 Q. When you use the term "catalog,"
8 does it include the price list?

9 A. No.

10 Q. Price list is a different thing?

11 A. It is.

12 Q. And who printed the price list for
13 Gold Star, the 2001-2002?

14 A. That would be done by various
15 administrative staff that we employed at the
16 time.

17 Q. Within Gold Star?

18 A. Within Gold Star.

19 Q. Would it then be fair to say that it
20 would be an easy matter for Gold Star to change
21 the information contained within the 2001-2002
22 price list?

23 A. To change it how?

24 Q. Let's say to update it price-wise or
25 any other change.

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2 A. I want to be specific in my answer,
3 so maybe you could be more specific in your
4 question. Or maybe I should tell you that some
5 of the files that were created in 2001 are no
6 longer available to us either, by the fact that
7 we basically change our hardware and software
8 quite often. So if I were to find some images
9 that are here for the benefit of just
10 recreating them today, I couldn't, in the shape
11 and form that they were used in this particular
12 price list, and I am referring to R 122.

13 Q. I wasn't necessarily suggesting
14 anything of the sort, but let me just ask you
15 was it the practice of International Gold Star
16 back in or about the time period of the
17 2001-2002 price list to periodically update the
18 information contained in the price list?

19 A. Not through the means of a price
20 list, but through the means of flyers or
21 notices and letters sent out to the customers
22 any and every time that the price has changed,
23 be it has gone up or down or be we have an
24 addition to a certain line of products.

25 Q. And all that we have for purposes of

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2 the exhibit is a photocopy. Could you describe
3 what the original 2001-2002 price list looked
4 like?

5 A. Typically the first page, the cover
6 page of the price list would be a different
7 color, so it may have been blue or yellow. I
8 usually stick to those colors.

9 Q. Would it have been bound on the side
10 such as the catalog that you have in front of
11 you?

12 A. Yes. Sometimes we did the binding
13 and until the copies ran out it would be in the
14 binding form, and then if that didn't -- you
15 know, if we ran out of copies, we would just
16 print them and staple them as you can see in
17 R 122.

18 Q. And were they originally fully in
19 color, each page, or --

20 A. No, they were just color page, but
21 not color images.

22 Q. So images of products, for example,
23 would have been black and white?

24 A. Right, exactly.

25 Q. Was it the practice of International

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2 Gold Star to create additional price lists in
3 subsequent years?

4 A. Yes. To be more precise, currently
5 they are computer generated, meaning they are
6 shoot out right from the computer system
7 itself. We have such a thing called price list
8 where we could just push the number and it will
9 be printed out instead of having somebody
10 manually enter that information into Excel
11 program.

12 MR. FRIEDMAN: I see. Okay. Given
13 that it's now about 1:20, shall we break?

14 MR. THOMPSON: Sure.

15 MR. FRIEDMAN: And Ms. Lubenskaya is
16 at 2:00.

17 MR. THOMPSON: She is due at 2.

18 (Time noted: 1:17 p.m.)

19 -----
20
21 GALINA PINCOW

22
23 Subscribed and sworn to before me

24 this day of 2008.

25 -----

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-----I N D E X-----

WITNESS	EXAMINATION BY	PAGE
GALINA PINCOW	MR. THOMPSON	88
	MR. FRIEDMAN	100

-----EXHIBITS-----

REGISTRANT	PAGE	LINE
Exhibit 129 E-mail dated November 13, 2000, Bates stamped GOLD 0017.....	94	16
Exhibit 130 Color copy Old Salzberg Semisoft Cheese, Bates stamped GOLD 0313.....	97	3
Exhibit 131 Finlandia Lappi Part Skim Milk Semisoft Cheese, Bates stamped GOLD 0312.....	97	23

intl@goldstarco.com

From: "Izabella" <iza@ikp.atm.com.pl>
To: "Galina Pincow" <intl@goldstarco.com>
Sent: Monday, November 13, 2000 3:04 PM
Subject: Catalogue - Dairy Products
Dear Lyuda:

attached please find the catalogue pages of the Dairy Products Section and following my comments

Page # 19

Cheese

No need for changes. Maybe the second (middle) row should be wider (more space between pictures) so that it has the same width as the third one.

OK

Page # 20

Cheese

Missing pictures 42022 and 42026

I will send you a picture to place between 42024 & 42025

Page # 21

Butter

Missing picture 40300

It's OK. But 48001 ROTATE FROM ← to ↑. 90°

Kefir

No need for changes

Page # 22

Feta & Farmer Cheese

There are two pictures of 40502 - why? If possible I would change the places of 40501 and 40502 in the third row.

The upper supposed to be 40500, and take away the one that says 40500 now.

Regards
Robert

11/15/2000

Old Salzburg



Made exclusively for
International Gold Star Trading Corp.
Brooklyn, NY 11231 (718) 522-1545

semi soft cheese

Nutrition Facts		Amount/Serving	%DV*	Amount/Serving	%DV*		
Serv. Size	1 oz.	Total Fat	9g	14%	Total Carb.	0g	0%
Servings	Vanes	Sat. Fat	6g	30%	Dietary Fiber	0g	0%
Calories	110	Trans Fat	0g		Sugars	0g	
Fat Cal.	80	Cholest	25mg	8%	Protein	7g	
*Percent Daily Values (DV) are based on a 2,000 calorie diet.		Sodium	190mg	6%			
		Vitamin A 6% • Vitamin C 0% • Calcium 23% • Iron 2%					

Keep Refrigerated. To be weighed at time of sale

Ingredients: pasteurized part skim milk, cheese cultures, enzymes, salt.

Four Seasons Dairy, Inc., Petitioner
v.
International Gold Star Trading Corp., Registrant
Cancellation No. 92/042,082

GOLD 0313

Registrant Exhibit 130 KK
10/17/08



**PART SKIM MILK
SEMISOFT CHEESE**

KEEP REFRIGERATED

INGREDIENTS: PASTEURIZED PART SKIM MILK,
CULTURE, SALT, ENZYMES.

DISTRIBUTED BY FINLANDIA CHEESE INC.
PARSIPPANY, NJ 07054 PLANT#36-8620

Nutrition Facts Serving Size 1 oz (28g) (about 1 in. cube) Servings Per Container: Varied, Amount Per Serving: **Calories 100, Fat Calories 70, Total Fat 8g** (12% DV), **Sat. Fat 5g** (25% DV), **Trans Fat 0g, Cholesterol 25mg** (8% DV), **Sodium 160mg** (7% DV), **Total Carb. <1g** (0% DV), **Fiber 0g** (0% DV), **Sugars 0g** **Protein 7g, Vitamin A (6% DV), Vitamin C (0% DV), Calcium (20% DV), Iron (0% DV).** Percent Daily Values (DV) are based on a 2,000 calorie diet.

Four Seasons Dairy, Inc., Petitioner
v.
International Gold Star Trading Corp., Registrant
Cancellation No. 92/042,082

Registrant Exhibit 131

KK
10/17/08

GOLD 0312