

ESTTA Tracking number: **ESTTA344967**

Filing date: **04/30/2010**

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	04/30/2010
Attachments	Troyer Transcript - REDACTED.pdf ( 121 pages )(254686 bytes ) Petitioner Ex. 201.PDF ( 1 page )(1117943 bytes ) Petitioner Ex. 202.PDF ( 3 pages )(111273 bytes ) Petitioner Ex. 203.PDF ( 1 page )(398169 bytes ) Petitioner Ex. 204.PDF ( 1 page )(468687 bytes ) Registrant Ex. 101.PDF ( 2 pages )(59218 bytes ) Registrant Ex. 102.PDF ( 1 page )(64739 bytes ) Registrant Ex. 103.PDF ( 1 page )(881571 bytes ) Registrant Ex. 104.PDF ( 1 page )(2690151 bytes ) Registrant Ex. 105.PDF ( 1 page )(910134 bytes ) Registrant Ex. 106.PDF ( 1 page )(851547 bytes ) Registrant Ex. 107 - REDACTED.pdf ( 1 page )(319227 bytes ) Registrant Ex. 108.PDF ( 1 page )(63941 bytes ) Registrant Ex. 109 - REDACTED.pdf ( 1 page )(101375 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 )  
15 ) Registrant. )  
16 -----)

17 CONFIDENTIAL EXAMINATION OF LISA ANNE TROYER  
18 New York, New York  
19 Tuesday, October 14, 2008  
20  
21  
22

23 Reported by:  
24 KRISTIN KOCH, RPR, RMR, CRR, CLR  
25 JOB NO. 19188a

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October 14, 2008

9:51 a.m.

Confidential Examination of LISA  
ANNE TROYER, 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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New York, New York 10007

COHEN PONTANI LIEBERMAN & PAVANE, LLP  
Attorneys for Registrant  
551 Fifth Avenue - Suite 1210  
New York, New York 10176

BY: ROGER S. THOMPSON, ESQ.

ALSO PRESENT:

GALINA PINCOW, International Gold Star

1  
2 (Registrant Exhibit 101, Amended  
3 Notice of Deposition of Lisa Troyer, marked  
4 for identification.)

5 \* \* \*

6 MR. THOMPSON: Before we get  
7 started, counsel have entered into a few  
8 stipulations we would like to have on the  
9 record.

10 First, that all objections except as  
11 to form are reserved. Second, that the  
12 witness may sign the transcript before any  
13 notary. And, third, that I will maintain  
14 custody of the original exhibits.

15 Is that right, Mr. Friedman?

16 MR. FRIEDMAN: Agreed.

17 MR. THOMPSON: Is there anything  
18 else you think we need to have on the  
19 record before we get started?

20 MR. FRIEDMAN: I think you have  
21 covered it.

22 MR. THOMPSON: Okay. Then we will  
23 get started.

24 \* \* \*

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L I S A   A N N E   T R O Y E R,  
called as a witness, having been duly sworn  
by a Notary Public, was examined and  
testified as follows:

EXAMINATION BY

MR. THOMPSON:

Q. Miss Troyer, thank you for coming.

A. You're welcome.

Q. I have had the reporter show you a  
document which we had marked as Exhibit 101 and  
it names a Lisa Troyer of Bunker Hill Cheese  
Company. Are you that Lisa Troyer?

A. Yes, I am.

Q. Can you please tell me, are you  
currently employed?

A. Yes, I am.

Q. And where are you employed?

A. At the Bunker Hill Cheese Company in  
Millersburg, Ohio.

Q. Could I ask you what you do at the  
Bunker Hill Cheese Company?

A. I hold a position of vice president  
of sales.

Q. And what are your duties as vice

1                   Troyer - Confidential

2       president of sales?

3           A.       Oversee the wholesale accounts that  
4       we sell and distribute to throughout the United  
5       States and foreign territories, managing our  
6       broker network and dealing directly with  
7       distributor clients.

8           Q.       And how long have you held that  
9       position?

10          A.       I came back into the family company  
11       in 1987 and pretty much from that point forward  
12       began to develop the outside sales beyond what  
13       it was at that point in time.

14          Q.       Could you please give me an idea of  
15       what the Bunker Hill Cheese Company does?

16          A.       We are a cheese manufacturing  
17       company located in north central Ohio. We  
18       purchase cow's milk from area farmers and  
19       process that into a variety of specialty  
20       cheeses.

21          Q.       And do you sell those cheeses to any  
22       particular types of customers?

23          A.       Specialty distributors throughout  
24       the United States, Canada, Mexico. Please ask  
25       the question again.

1                   Troyer - Confidential

2           Q.       Well, do you have any particular  
3 niche markets into which you sell your cheeses?

4           A.       I would say that we supply to more  
5 specialty type distributors. We are not a  
6 commodity manufacturer. We sell to middle and  
7 upper middle class type retail outlets and  
8 retailers that service specific ethnic groups.

9           Q.       Could you name some of those ethnic  
10 groups?

11          A.       The Russian market here in the  
12 United States. We do have some distribution in  
13 Canada that would be supplying similar type  
14 markets. We sell a lot of product to those who  
15 are more health conscious, because of the type  
16 of raw materials we choose to implement into  
17 the manufacturing process.

18          Q.       And what types of raw materials are  
19 those?

20          A.       Those would be -- it would be milk  
21 that is not treated with artificial growth  
22 hormone. We are servicing a market that wants  
23 to purchase product in its purest form without  
24 preservatives, additives or, like I said, the  
25 artificial growth hormones integrated into the

1 Troyer - Confidential

2 milk.

3 Q. And has Bunker Hill Cheese Company  
4 always maintained such a target market for its  
5 cheeses?

6 A. I would say that the process that we  
7 use has remained the same under the family  
8 ownership of the company since 1935. Because  
9 of the development of commodity markets among  
10 competitors in the United States we have become  
11 what would be called an artisan specialty  
12 manufacturer, not because we have changed our  
13 process, but that the demand in the marketplace  
14 has changed, so our focus has become more  
15 targeted in relation to the general population.

16 Q. And have you in the course of your  
17 business dealings ever had business dealings  
18 with International Gold Star Trading  
19 Corporation?

20 A. Yes.

21 Q. What are the nature of those  
22 business relations?

23 A. International Gold Star purchases  
24 our product and they distribute it to their  
25 client base.

1 Troyer - Confidential

2 Q. What specific types of products have  
3 they purchased?

4 A. The yogurt culture cheeses that our  
5 company has been making since around 1970.

6 Q. Anything else?

7 A. Products that we would classify as  
8 specialty variety products like our Old  
9 Salzberg style cheese, Havarti type cheeses  
10 that we have customized with the addition of  
11 the yogurt cultures, naturally smoked product.  
12 Pretty much, you know, our whole line has been  
13 available for them since we began doing  
14 business with them over a decade ago.

15 Q. Do you remember the first product --  
16 well, let me start over.

17 Do you remember your first dealings  
18 with International Gold Star?

19 A. Yes. Galina contacted me requesting  
20 to purchase what we classify as the original  
21 yogurt cheese. Because of dealings with other  
22 distributors in the area prior to that I  
23 offered to her a limited amount of varieties so  
24 as not to cause unfair competition for those  
25 who I had already been in a business

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2           relationship with at that time.

3           Q.       Okay. You mentioned Galina. Is  
4           that Ms. Galina Pincow who is here with us  
5           today?

6           A.       That is correct, yes.

7           Q.       Could you detail or put forth in a  
8           little more detail that initial conversation  
9           where you said you declined to sell her a  
10          certain type of cheese?

11          A.       Well, because of, let's say, my  
12          basic values, if I am working with a client and  
13          I pledge to them not to sell a product that I  
14          am selling to them to another potential client,  
15          then I give those folks more of an exclusivity  
16          and so they know that they are protected in the  
17          marketplace. I do not like to cause any  
18          hardship for my clients. I want to be a  
19          supportive supplier. So, therefore, I will  
20          give folks the opportunity to develop the  
21          marketplace with specific products so they can,  
22          you know, be profitable and I can be profitable  
23          and everybody is happy.

24          Q.       Any of these exclusive  
25          relationships, are they embodied in written

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2       contracts or --

3           A.     No.  They are based on verbal  
4       agreement and people have to take me at my  
5       word.

6           Q.     Do you at any time enter into  
7       written distributorship agreements?

8           A.     Well, have I signed a contract?  No.  
9       In written statements perhaps via e-mail or  
10      something to that effect, but not a legal  
11      contract, but yeah, written information,  
12      especially if somebody in a certain marketplace  
13      makes an inquiry as to whether or not I'll sell  
14      them product in that environment, I will reply  
15      to them either by written letter or via e-mail  
16      and tell them no, I'm sorry, I can't sell  
17      direct to you because I have appointed this  
18      organization as the master distributor for that  
19      territory or that type of specialty retailer.

20          Q.     But just to clarify, you have no  
21      written exclusive distributorship contracts  
22      with any of your customers?

23          A.     Not by legal contract, no.

24          Q.     Do you know at the time you first  
25      started dealing with International Gold Star

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2 what the first product you sold to them was?

3 A. Those items would be the vegetable  
4 yogurt cheese and the smoked yogurt cheese  
5 under the Heini's brand label and then soon  
6 thereafter we developed what we call a Havarti  
7 yogurt cheese that we developed specifically  
8 for Galina's company to sell under the Babushka  
9 Recipe labeling.

10 Q. Do you know -- could you please  
11 explain -- let me start that question over.

12 Could you please explain the way you  
13 go about applying labels, if you do, to  
14 products that you have private labeled for your  
15 customers?

16 MR. FRIEDMAN: I am just going to  
17 object on grounds of leading the witness.

18 MR. THOMPSON: All right. Then I  
19 will start over.

20 Q. Have you ever private labeled  
21 products?

22 A. Yes.

23 Q. Have you ever private labeled  
24 products for International Gold Star?

25 A. Yes.

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2           Q.       Do you remember the first product  
3 that you private labeled for Gold Star?

4           A.       The Havarti yogurt cheese under the  
5 Babushka's Recipe.

6           Q.       Do you know how labels for the  
7 Havarti yogurt cheese became applied to the  
8 product that you supplied to them?

9           A.       On our packaging line we received --  
10 in this case my recollection is that the labels  
11 were produced by Gold Star and shipped to us  
12 and they come in rolls and then on our  
13 packaging line after the cheese is packed in  
14 the specific size and shape that's been  
15 designated for that item, then a label is  
16 applied and then we pack it in the cases, so my  
17 employees are physically applying -- we do not  
18 have an automatic labeler to do that job, so my  
19 employees would physically apply that label to  
20 product that we manufacture for that purpose.

21          Q.       So your employees physically remove  
22 the label, slap it on the product, box it up  
23 and ship it out?

24          A.       Correct.

25          Q.       Do you remember what the label

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2       looked like for the Havarti yogurt cheese that  
3       you first supplied to International Gold Star?

4           A.       Yes.   Having the words Havarti  
5       yogurt cheese on it with the list of  
6       ingredients.   The artwork was of a  
7       grandmother-type illustration, cartoon, however  
8       you want to phrase that, wearing a hood that  
9       had dual language on it and it was pretty much  
10      as Galina had described it would look in the  
11      phone conversations prior to the manufacture of  
12      that product.   The intent was to expand that  
13      line which she had already developed prior to  
14      the manufacture of the Havarti yogurt cheese  
15      and when we received the label, it was like,  
16      okay, this is a cute label and very marketable  
17      and we were happy to help develop that product  
18      line for them.

19                   MR. THOMPSON:   I will ask the  
20                   reporter to mark then as Exhibit 102 the  
21                   following document, which is a black and  
22                   white photocopy of a label which has the  
23                   name Havarti Yogurt Cheese on it and the  
24                   words Babushka's Recipe on it.   It also  
25                   bears in the lower right-hand corner the

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2                   Bates number Gold 0001 and I will ask the  
3                   reporter to show that to you when it's  
4                   marked.

5                   MR. FRIEDMAN: Just for  
6                   clarification, you mentioned the number  
7                   102. Is that Respondent's or Registrant's  
8                   102?

9                   MR. THOMPSON: I'm sorry. That will  
10                  be Registrant's 102.

11                  (Registrant Exhibit 102, photocopy  
12                  of label, Babushka's Recipe Havarti Yogurt  
13                  Cheese, Bates stamped GOLD 0001, marked for  
14                  identification.)

15                  Q. Please let me know when you have had  
16                  a chance to look at that.

17                  (Document review.)

18                  A. Okay.

19                  Q. Is this familiar to you?

20                  A. Yes.

21                  Q. Could you please tell me what it is?

22                  A. It is the artwork from the  
23                  Babushka's Recipe private label product that my  
24                  company manufactured specifically and  
25                  exclusively for the purpose of being sold by

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2       Gold Star under the Babushka's Recipe labeling.

3           Q.       Now, you had described earlier that  
4       you had a telephone conversation with  
5       Ms. Pincow --

6           A.       Yes.

7           Q.       -- about the Babushka's Recipe label  
8       before it came to you. Do you remember saying  
9       that?

10          A.       Yes.

11          Q.       Could you please describe the  
12       circumstances of that phone call in more  
13       detail.

14          A.       Galina wanted to have a product that  
15       she could market exclusively to the Russian  
16       market. As I had mentioned previously, she  
17       would have preferred to have the original  
18       yogurt cheese made available, but at that time,  
19       as I mentioned, there were other clients using  
20       that product whom I had pledged to not infringe  
21       upon their territory. As Galina described the  
22       concept for Babushka as very home style, very  
23       traditional, I believe it was my suggestion  
24       that we use our Havarti-type recipe and  
25       integrate our yogurt cultures and the yogurt

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2       cheese manufacturing process with the Havarti  
3       type and that was the item that Galina and I  
4       concluded would be a good item to introduce the  
5       Babushka's Recipe cheese -- the semisoft cheese  
6       product line.

7           Q.       Do you know who coined the phrase  
8       "Babushka's Recipe"?

9           A.       The first time I ever heard it I  
10       heard it from Galina.

11          Q.       So it wasn't something that you had  
12       had any part in developing?

13          A.       No.

14          Q.       So she came to you with that name?

15          A.       Correct.

16          Q.       Did she tell you at that time if  
17       there were any other products which were being  
18       sold under that name?

19          A.       My understanding is that, yes, there  
20       were other items and that she wanted to expand  
21       the line to include semisoft natural cheeses  
22       like we manufacture.

23          Q.       And from your understanding, it was  
24       International Gold Star who was selling these  
25       products and not some third party?

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2           A.       Correct.

3           Q.       Do you remember when you first  
4 started selling this Havarti Yogurt Cheese to  
5 Gold Star?

6           A.       Prior to the year 2000.

7           Q.       Do you have any records that would  
8 substantiate that?

9           A.       I asked my office manager to attempt  
10 to find that documentation prior to my trip to  
11 New York. Because of only holding invoices the  
12 length of time that's required should there be  
13 like an IRS audit she was not able to provide  
14 that for me, and our accounts receivable clerk  
15 has been hospitalized and was not available to  
16 go back further through those records.

17          Q.       So you have no documentation that  
18 would help you establish the exact date on  
19 which you first started shipping products?

20          A.       Not to my knowledge, as of today.

21          Q.       Is there anything that you could use  
22 as a reference point for determining the period  
23 of time when you first started selling these  
24 products to International Gold Star?

25          A.       In my own personal situation,

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2       because of being a working mother who had the  
3       opportunity to work from my home, our  
4       relationship with Gold Star began around the  
5       time that my daughter Jillian, who was born in  
6       1996, was a small toddler and the conversations  
7       that I had with Galina and other business  
8       clients as well from my home would fit into  
9       that timeline around 1998, 1999.

10           Q.       I will show you a document that we  
11       have had marked previously with the Bates  
12       number GOLD 0209.

13                   MR. THOMPSON:   That's in the package  
14       I gave you today, Sam.

15           Q.       And I will ask --

16                   MR. FRIEDMAN:   I'm sorry, would you  
17       repeat that, please.

18                   MR. THOMPSON:   I am going to give to  
19       the reporter to mark as Exhibit Registrant  
20       103 a document that we have had marked that  
21       I have handed to you earlier bearing the  
22       Bates number GOLD 0209. I will have that  
23       marked as Registrant's 103.

24                   MR. FRIEDMAN:   I am just going to  
25       place an objection on the record to the

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2                   introduction of any documents by Registrant  
3                   that were not exchanged during the  
4                   discovery phase of this proceeding, such as  
5                   R-102.

6                   MR. THOMPSON: I understand. I will  
7                   state for the record, as I have told you  
8                   previously off the record, these are  
9                   documents which came from third parties and  
10                  were only received moments before I  
11                  e-mailed them to you on Friday.

12                  MR. FRIEDMAN: I believe that's  
13                  irrelevant.

14                  MR. THOMPSON: Okay.

15                  (Registrant Exhibit 103, color copy  
16                  of label Babushka's Recipe Havarti Yogurt  
17                  Cheese, Bates stamped GOLD 0209, marked for  
18                  identification.)

19                  Q.     Let me know when you have had a  
20                  chance to look at that.

21                  A.     Okay.

22                  (Document review.)

23                  MR. THOMPSON: Let me just take a  
24                  moment before I ask you questions.

25                  I just received copies of further

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2                   documents which I will hand to you, Sam. I  
3                   will probably use them later, but I just  
4                   had them come in from my client earlier  
5                   today.

6                   MR. FRIEDMAN: So you are producing  
7                   additional documents now?

8                   MR. THOMPSON: Yes. I will not be  
9                   using them in this deposition, but I am  
10                  giving them to you today.

11                  MR. FRIEDMAN: And these documents  
12                  are numbered GOLD 0226 through GOLD 0299.

13                  MR. THOMPSON: I will presume you  
14                  got the numbers right. Yes.

15                  MR. FRIEDMAN: Okay. Again, these  
16                  are being handed to me for the first time  
17                  today and I object to the introduction of  
18                  any documents not previously exchanged  
19                  during discovery.

20                  MR. THOMPSON: For the record, these  
21                  documents aren't being introduced right  
22                  now.

23                  MR. FRIEDMAN: These documents are  
24                  from your client?

25                  MR. THOMPSON: Some of them are.

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2                   Towards the end of the pile there are  
3                   documents that were not from my client. Up  
4                   to 285, I think, were invoices from the  
5                   client, and then starting at 286 to 299  
6                   these are -- some of them may have been in  
7                   their files, but not all of them. When I  
8                   go through them in more detail I can advise  
9                   you. I think 291 through 299 came in from  
10                  Ms. Lubenskaya last week. The other  
11                  documents, 286 through 289, were available  
12                  to my client before. I just point out,  
13                  however, that they weren't asked for during  
14                  discovery and I am still entitled to rely  
15                  on documents that had not been asked for  
16                  during my testimony period.

17                  MR. FRIEDMAN: You are stating that  
18                  these documents are not responsive to any  
19                  document request, interrogatory or request  
20                  for admission?

21                  MR. THOMPSON: I believe that would  
22                  be correct.

23                  MR. FRIEDMAN: That would be hard to  
24                  believe.

25                  MR. THOMPSON: Okay.

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2       BY MR. THOMPSON:

3           Q.       Now, back to Registrant 103, do you  
4 recognize this document?

5           A.       Yes.

6           Q.       Can you please describe what it is?

7           A.       It is a color rendition of the  
8 Babushka's Recipe label for the Havarti Yogurt  
9 Cheese that my company manufactures for Gold  
10 Star.

11          Q.       And this color copy 103 is similar  
12 or identical to 102, except for its being in  
13 color?

14          A.       Correct.

15          Q.       And for the fact that in the upper  
16 left-hand corner of the color copy there is  
17 some handwriting?

18          A.       Correct.

19          Q.       Is that your handwriting?

20          A.       I do not think so.

21          Q.       It says, for the record, "new  
22 7/12/99." For our purposes today, I will  
23 represent to you that this document was  
24 provided to us by the printing company.

25                   And does the date 7/12/99 seem

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2           consistent with your recollection of when you  
3           began selling the Havarti Yogurt Cheese?

4                   MR. FRIEDMAN:   Leading the witness.

5                   Objection.

6                   MR. THOMPSON:   You can answer.

7                   A.       Yes.

8                   Q.       From what you said before, that date  
9           falls within the time frame that you thought  
10          you started selling that product?

11                  A.       Correct.

12                  Q.       Since the time of 1999, the past  
13          nine years or so, have you sold other products  
14          in addition to the soft cheeses to Gold Star?

15                  A.       We have sold to Gold Star the  
16          semisoft cheeses that we manufacture, and not  
17          only the Havarti Yogurt Cheese type, but, yes,  
18          also flavored cheeses, but we are a  
19          manufacturer of semisoft cheeses, so that's  
20          what we sell to them.

21                  Q.       Let me be more clear with my  
22          question.

23                            Have you sold any products other  
24          than those bearing a Babushka's Recipe label?

25                  A.       Yes.

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2 Q. What types of other cheeses have you  
3 sold to them?

4 A. We sell yogurt cheese, lacy baby  
5 swiss under the Heini's brand name. We have  
6 also sold private label items. The  
7 Old Salzberg label, Hunter's cheese which is a  
8 natural smoked variation of the Old Salzberg,  
9 hot pepper cheeses, garlic and sun dried tomato  
10 cheeses. There are several items in our  
11 product line both under our brand and then  
12 those specific exclusive items that we have  
13 developed for Gold Star that we make available  
14 to them.

15 Q. And you had mentioned two particular  
16 names. One of them was Heini's. That's  
17 H-E-I-N-I apostrophe S?

18 A. Correct. That's the retail brand  
19 name that we market product under.

20 Q. And that is then a Bunker Hill  
21 Cheese trademark, Heini's?

22 A. Yes.

23 Q. How about Old Salzberg, you did  
24 mention that, is that a Bunker Hill trademark?

25 A. That is an item that we make

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2 exclusively for Gold Star. We have for several  
3 years. We do not sell that product to anyone  
4 else under that name, nor do we sell the  
5 Hunter's cheese to any other company, thus  
6 referring back to my awarding exclusivity to  
7 clients, especially for items that they bring  
8 to us that they initiate and develop and then  
9 we manufacture predicated on their R&D work.

10 MR. THOMPSON: Do you mind if we  
11 just take a three- or four-minute break  
12 while I check out some of these color  
13 copies that I have.

14 MR. FRIEDMAN: Go ahead.

15 (Recess was taken from 10:30 to  
16 10:31.)

17 (Registrant Exhibit 104, Heini's All  
18 Natural Yogurt Cultured Semisoft Part-Skim  
19 Cheese, Original Flavor plastic wrapper,  
20 Bates stamped GOLD 0286, marked for  
21 identification.)

22 (Registrant Exhibit 105, Amish  
23 Gourmet Yogurt Cheese, Semisoft Part-Skim  
24 Cheese label, Bates stamped GOLD 0289,  
25 marked for identification.)

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2                   (Registrant Exhibit 106, Amish

3                   Valley Colby Cheese label, Bates stamped

4                   GOLD 0288, marked for identification.)

5 BY MR. THOMPSON:

6           Q.       I will first ask you to take a look  
7           at something we have had marked as Registrant  
8           104, and after you have had a chance to look at  
9           it, I will ask you if you can identify it.

10          A.       Okay.

11          Q.       Are you finished?

12          A.       Yes.

13          Q.       Can you identify that?

14          A.       This is the printed Cryovac bag that  
15          we package our original flavored yogurt cheese  
16          in.

17                   MR. FRIEDMAN: Could you please read  
18                   back that question.

19                   (Record read.)

20          Q.       And by "we," you mean Bunker Hill  
21          Cheese?

22          A.       Correct.

23          Q.       Now, it has on it a picture of a  
24          buggy with a horse in front of a farm; is that  
25          right?

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2           A.     Yes.

3           Q.     And the name Heini's, H-E-I-N-I  
4 apostrophe S; is that right?

5           A.     Yes.

6           Q.     And that's the same mark we had  
7 discussed earlier as the name mark belonging to  
8 Bunker Hill Cheese; is that right?

9           A.     Yes.

10          Q.     Can you tell me when you first  
11 started selling this product?

12          A.     In 1971.

13          Q.     And did it at all times have a label  
14 similar to this on it?

15          A.     No.

16          Q.     When did you first start selling it  
17 with this label?

18          A.     I would say the bag invoices would  
19 substantiate this, but I believe late 2002 or  
20 2003, because we were required by the FDA to  
21 make some changes, so we had this new rendition  
22 developed.

23          Q.     When did you first start selling  
24 this yogurt cheese with the Heini's name with  
25 that picture of a buggy on it?

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2           A.       2003.

3           Q.       2003. Subsequent to that time --

4                   MR. FRIEDMAN: I just would like to  
5 place my objection on the record again that  
6 this is a document not produced in the  
7 exchange in discovery and I have a standing  
8 objection.

9                   MR. THOMPSON: Fine. I will just  
10 represent that I don't believe that this  
11 was a document that had been specifically  
12 requested or would be responsive to your  
13 document requests or interrogatories.

14                  MR. FRIEDMAN: I also object to this  
15 on grounds of relevance.

16                  MR. THOMPSON: Okay. We will get to  
17 that.

18           Q.       Did there ever come a time when you  
19 saw another product in the marketplace which  
20 had a label similar to what we have seen as  
21 Registrant 104?

22           A.       Yes.

23           Q.       Okay. And do you know who  
24 manufactured that product?

25           A.       That product was manufactured by

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2       Minerva Dairy in Minerva, Ohio. It was  
3       presented to us when Galina and her son James  
4       came to visit our factory in 2005 and upon  
5       looking at the irrefutable similarity to the  
6       packaging we felt that it was an attempt to  
7       confuse the consumer.

8           Q.     I will show you what has been marked  
9       as Exhibit 105 and ask you to take a look at  
10      that.

11          A.     Yes.

12          Q.     Is that the label you were referring  
13      to?

14          A.     That's correct.

15          Q.     Do you know for whom Minerva  
16      manufactured this product?

17          A.     Yes.

18          Q.     Who was that?

19          A.     For Four Seasons in Brooklyn,  
20      New York, and that was substantiated by my  
21      conversation with Philip Mueller, the then  
22      president of Minerva Dairy.

23          Q.     So the name Four Seasons Dairy  
24      appears at the bottom of Exhibit 105; is that  
25      correct?

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2           A.       Correct.

3           Q.       So did you learn from Mr. Mueller --  
4   that's M-U-E-L-L-E-R, I presume?

5           A.       M-U-E-L-L-E-R, yes.

6           Q.       Did you learn from Mr. Mueller how  
7   he came to be manufacturing this product for  
8   Four Seasons?

9           A.       Yes. He said that he had been  
10   called by them to avail to Four Seasons --

11           MR. FRIEDMAN: I just note my  
12   objection on grounds of hearsay.

13           MR. THOMPSON: Go ahead. You can  
14   continue to answer.

15           A.       After the package was presented for  
16   our observation -- and when I say "our," I mean  
17   myself, my sister, LeeAnne Martin, who  
18   photographed this picture at the Mount Hope  
19   Auction Barn in Mount Hope, Ohio.

20           MR. FRIEDMAN: Can you just state  
21   what this picture is.

22           MR. THOMPSON: I was just going to  
23   wait for her to finish.

24           Q.       When you were holding in your hand  
25   something that you referred to as "this

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2       picture," could you just state for the record  
3       what that was with the exhibit number?

4           A.       The Amish buggy, Exhibit 104.

5           Q.       Just for purposes of the record,  
6       it's helpful if you are holding a document to  
7       use the exhibit number so that the record is  
8       clear.

9           A.       Forgive my oversight.

10          Q.       No problem. Just please continue.

11          A.       When Galina and James Pincow came to  
12       visit the corporate office of Bunker Hill  
13       Cheese in 2005 I believe it was, my sister,  
14       LeeAnne Martin, who took the physical  
15       photograph of the Amish buggy that appears on  
16       the yogurt cheese packaging, Exhibit 104, and  
17       our wholesale manager, Levi Keim Jr., my  
18       husband Robert Troyer, the operations manager  
19       at Bunker Hill Cheese, my parents, Peter  
20       Dauwalder, the president of the corporation,  
21       and my mother, Nancy Dauwalder, the secretary  
22       treasurer of the corporation, and other members  
23       of our staff inclusive of my marketing  
24       director, Robert Walker, all concluded without  
25       any provocation that we all saw the Amish

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2       Gourmet labeling distributed by Four Seasons  
3       Dairy in Brooklyn, New York as an attempt to  
4       confuse the consumer and basically infringe on  
5       our concept that's presented in Exhibit 104.

6                   One thing that I would like to add  
7       is if you will look at the ingredient listing  
8       on Exhibit 104, that substantiates my prior  
9       testimony that we were required to make  
10      labeling changes predicated on instructions of  
11      the FDA, because if you read the ingredient  
12      listing on Exhibit 103 and you read the  
13      ingredient listing on Exhibit 104, because  
14      there is no standard of identity on yogurt  
15      cheese, per se, the ingredient listing on  
16      Exhibit 103 does reflect labeling from the late  
17      1990s and Exhibit 104 displays the ingredient  
18      listing that was approved by the FDA after  
19      re-evaluation of the label. And thus too, my  
20      sister, LeeAnne Martin, and I own the trademark  
21      name "yogurt cultured cheese." That was filed  
22      by our attorney in Atlanta, Georgia, his name  
23      is Lee Beitchman, and that is a registered  
24      trademark, noting "yogurt culture" appears on  
25      the Four Seasons label and we did not license

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2       them to include that phraseology on their label  
3       either.

4           Q.       Did you finish?

5           A.       Pardon?

6           Q.       Did you finish your statement? I  
7       don't want to interrupt.

8           A.       The point in that is that this label  
9       is quite a bit older than this because of the  
10       ingredients.

11          Q.       The first --

12          A.       Yes, Exhibit 103 ingredient listing  
13       is different than -- even though the cheese is  
14       the same, the FDA, because of standards of  
15       identity, required a different order of  
16       ingredient listing on Exhibit 104 which was  
17       changed in 2003. I believe if we look at  
18       invoices from the Cryovac Company and bills of  
19       lading, that identifies this Exhibit 104 as  
20       being in the marketplace in 2003, and thus  
21       discovering Four Seasons' use of an incredibly  
22       similar presentation in 2005, our conclusion is  
23       that they were attempting to confuse the  
24       consumer.

25                   MR. THOMPSON: I will just ask if we

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2                   can go off the record a minute.

3                   (Recess was taken from 10:46 to  
4                   10:51.)

5                   (Registrant Exhibit 107, Curwood  
6                   invoice dated May 30, 2003, marked for  
7                   identification.)

8                   (Registrant Exhibit 108, USA Label  
9                   Express, Inc. invoice dated 6-10-03, marked  
10                  for identification.)

11                  (Registrant Exhibit 109, Curwood  
12                  invoice dated June 2, 2003, marked for  
13                  identification.)

14 BY MR. THOMPSON:

15                  Q.       We have had the reporter hand you  
16                  three documents we have marked as Registrant's  
17                  107, 108 and 109, but before I ask you to look  
18                  at that, you had said off the record something  
19                  you would hope would clarify one of the  
20                  documents you referred to, so I will ask you to  
21                  state that on the record.

22                  A.       Yes.   When making mention of the  
23                  label under the name Amish Gourmet, Product  
24                  Distributed by Four Seasons, that is  
25                  Exhibit 105.   The previous testimony was doing

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2           a comparison between Exhibit 104 and 005.

3                   MR. FRIEDMAN: I'm sorry, I don't  
4           understand.

5           A.     Okay. Should I --

6           Q.     Please.

7           A.     When I made reference to this label,  
8           which I am pointing to --

9                   MR. FRIEDMAN: 105?

10          A.     Exhibit 105, I did not name it as  
11          105. I named it as the label that said Amish  
12          Gourmet instead of using the exhibit number.  
13          So just to clarify I wanted to make reference  
14          to the exhibit number for the record.

15                  MR. FRIEDMAN: Thank you.

16          Q.     Now, we have had three documents  
17          marked as Registrant 107, 108 and 109. Are you  
18          familiar with these documents?

19                  MR. FRIEDMAN: I am just going to  
20          repeat my objection to any documents not  
21          exchanged during discovery. I've never  
22          seen these documents before. Also on  
23          grounds of relevance.

24          Q.     Can you please identify what they  
25          are?

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2           A.       They are invoices from Curwood  
3 Incorporated. When I made previous reference  
4 to Cryovac Company, I believe by that time  
5 Curwood had acquired Cryovac. They are the  
6 manufacturer of vacuum sealable bags, or  
7 perhaps even Curwood might be a separate  
8 company. That would not be under my  
9 jurisdiction as far as purchasing at the  
10 company, but a Cryovac bag is a general term  
11 used in the cheese industry that describes a  
12 bag that can be vacuum sealed, for clarity.  
13 There is also a document which is Exhibit 108  
14 which is an invoice from USA Label Express in  
15 Bolivar, Ohio, that illustrates our order of  
16 labels that we purchased to apply to product  
17 that we sell to Gold Star. The development and  
18 purchase of those raw materials show dates of  
19 2003.

20           Q.       And for the record, Bolivar is  
21 spelled B-O-L-I-V-A-R?

22           A.       Yes.

23           MR. FRIEDMAN: Can I just ask, is  
24 this in reference to a particular exhibit  
25 number?

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2                   MR. THOMPSON: You are holding 107  
3                   in your hand. You are asking if 107 is in  
4                   relation to any previous exhibit?

5                   MR. FRIEDMAN: No, to the  
6                   explanation that the witness just gave. Is  
7                   she referring to 107 or is there a  
8                   different --

9                   A. Yes, well, the purchase -- okay.  
10                  Exhibit 107 is reflective of the purchasing of  
11                  items similar to Exhibit 104, which would be  
12                  the bag that has the Heini's brand name and the  
13                  picture of the Amish buggy featuring "yogurt  
14                  cultured semisoft part-skim cheese."

15                  Q. And Exhibit 109, does that relate to  
16                  what type of product?

17                  A. Another purchase order, another  
18                  invoice, rather, from Curwood billed to us,  
19                  which would be additional bags. The  
20                  Exhibit 107 is an invoice for a 9-by-20 vacuum  
21                  sealable bag which we would place what we call  
22                  our deli brick in for distribution.  
23                  Exhibit 109 is reflective of a 10-by-14 inch  
24                  vacuum sealable bag that we placed what we  
25                  classify as a long horn. Those are just

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2 different sizes of product, but there is a  
3 distinction between the brick and the horn in  
4 our inventory descriptions.

5 Q. You referred to 109 as being a  
6 10-by-14, but it says 10-by-24?

7 A. 10-by-24, yes.

8 Q. And, again, Exhibit 108 is what?

9 A. An invoice for color labels that we  
10 purchased from USA Label Express that would  
11 substantiate that these items were developed  
12 into the new packaging that's reflected on  
13 Exhibit 104 in calendar year 2003.

14 Q. And we haven't discussed what has  
15 been marked as Exhibit 106 previously, so I  
16 will hand that to you and ask you to take a  
17 look at that.

18 MR. FRIEDMAN: Does it have a  
19 number?

20 MR. THOMPSON: Bates 288.

21 Q. Please let me know when you have had  
22 a chance to look at it.

23 A. Yes, I have had a chance to look at  
24 it.

25 MR. THOMPSON: Do you want to go off

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2                   a second?

3                   MR. FRIEDMAN: Yes, let's go off a  
4                   second.

5                   (Discussion off the record.)

6 BY MR. THOMPSON:

7                   Q.        Could you please identify what 106  
8                   is?

9                   A.        106 is a label that Bunker Hill  
10                  Cheese has developed as part of our general  
11                  product line. The color photograph or artist's  
12                  rendition, rather, that represents the Amish  
13                  buggy and the artwork, that artwork was created  
14                  originally by an artist named Wayne Troyer, no  
15                  relation to me, and that illustration is a  
16                  registered trademark owned by Bunker Hill  
17                  Cheese. That trademark was filed through the  
18                  office of Lee Beitchman in Atlanta, Georgia.

19                  Q.        And to the best of your knowledge,  
20                  did Bunker Hill Cheese sell the product bearing  
21                  the label shown in Exhibit 106 before Four  
22                  Seasons first started selling -- before you  
23                  first became aware of Four Seasons selling the  
24                  product shown in Exhibit 105?

25                  A.        Yes. Sales of this product was

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2 prior to discovery of Exhibit 105.

3 Q. And by "this product," you are  
4 referring to Exhibit 106?

5 A. Correct.

6 MR. THOMPSON: These I don't have  
7 copies of yet, because they are fresh from  
8 the store. I will let you take a look at  
9 them first, if you like. We can go off for  
10 a minute.

11 (Recess was taken from 11:02 to  
12 11:05.)

13 (Registrant Exhibit 110, Amish  
14 Gourmet Yogurt Cheese, Semisoft Part-Skim  
15 Cheese, marked for identification.)

16 (Registrant Exhibit 111, New  
17 Salzberg Cheese, Part-Skim Milk Semisoft  
18 Cheese, marked for identification.)

19 (Registrant Exhibit 112, Amish  
20 Country Roll Butter, marked for  
21 identification.)

22 BY MR. THOMPSON:

23 Q. I will state for the record that we  
24 have handed you three specimens of products  
25 that have labels on them and have now been

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2           marked as Exhibits 110, 111 and 112.

3                   MR. FRIEDMAN:   Could we just take a  
4                   moment so that I can hash out which is  
5                   which.

6                   MR. THOMPSON:   I was going to do  
7                   that.   Exhibit 110 we have marked as the  
8                   brick of cheese there which the reporter  
9                   has marked on the record as being an Amish  
10                  yogurt cheese with a label which I will  
11                  represent, no one has to agree with me,  
12                  similar to what's Exhibit 105.

13                  As 111 we have a label for New  
14                  Salzberg cheese, and 112 a butter package.

15                  For the record, we are handing them  
16                  to the witness containing the actual  
17                  product of the various cheeses and the  
18                  butter, but as I will be maintaining the  
19                  original exhibits in my files, I will be  
20                  removing the actual products from the  
21                  labels and only maintaining the labels, and  
22                  since the label for 112 is a waxy paper,  
23                  which seems we have some problem with the  
24                  evidence stickers sticking to it, I may end  
25                  up having to staple it to them or otherwise

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2                   adhering it.

3                   Is that all right with you,  
4                   Mr. Friedman?

5                   MR. FRIEDMAN: I'm sorry, is what  
6                   all right with me?

7                   MR. THOMPSON: That I remove the  
8                   products from the interior of these and  
9                   only maintain the labels of each of these  
10                  three products and that, if necessary, I  
11                  can affix the exhibit stickers to  
12                  Exhibit 112 through some mechanical means  
13                  necessary to ensure that they stay  
14                  together.

15                 MR. FRIEDMAN: Well, again, I would  
16                 renew my objection to any documents not  
17                 exchanged during the discovery phase of  
18                 this proceeding, as we are now in the trial  
19                 phase. I am reserving my objection. To  
20                 the extent that you need to do practical  
21                 things with these food exhibits so that  
22                 they don't spoil or otherwise cause  
23                 problems, I think that would be reasonable.

24                 BY MR. THOMPSON:

25                 Q.       With that, now that we have taken up

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2 all that time, I will just ask you to take a  
3 look at those products and tell me if you can  
4 identify them.

5 A. Yes.

6 Q. What are they, please, one at a time  
7 and by exhibit number.

8 A. Exhibit 110 is a yogurt cheese  
9 distributed by Four Seasons bearing a label  
10 with an Amish horse and buggy on it, a label  
11 that I identify as inappropriately similar to  
12 the labeling that Bunker Hill Cheese  
13 integrated -- introduced into the marketplace  
14 in 2003.

15 Exhibit 111 is another item  
16 distributed by Four Seasons in Brooklyn labeled  
17 New Salzberg Cheese which, as I observed, the  
18 labeling is exceedingly similar to the  
19 Old Salzberg Cheese packaging that Bunker Hill  
20 Cheese manufactures exclusively for Gold Star  
21 in Brooklyn.

22 I see the third exhibit, being  
23 Exhibit 112, a parchment-wrapped piece of  
24 butter bearing a label with an Amish horse and  
25 buggy on it which is similar in shape and

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2       presentation to the Amish roll butter that  
3       Bunker Hill Cheese has marketed, which is made  
4       from the cream that is a byproduct of the  
5       cheese manufacturing process. I don't know  
6       what else to say about it.

7           Q.       Have you ever been made aware of the  
8       sales of a New Salzberg cheese before today?

9           A.       Yes.

10          Q.       What were the circumstances of your  
11       becoming aware of that?

12          A.       Being informed by Galina Pincow from  
13       Gold Star that Four Seasons was soliciting what  
14       she deemed to be her customer base with a  
15       product that was a duplication of what she had  
16       already introduced to her client base in the  
17       Russian market in the greater New York area.

18          Q.       Did you at that time get the  
19       opportunity to inspect a New Salzberg label?

20                   MR. FRIEDMAN: Objection.

21                   Ambiguous.

22          Q.       At the time that Galina Pincow  
23       brought to your attention the introduction of  
24       this New Salzberg product to the marketplace,  
25       did she provide you with a copy or a sample or

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2       a specimen of a New Salzberg label?

3           A.       That, I believe, was made available  
4       to my husband, Robert Troyer. I do not recall  
5       seeing that item upon the previously-referenced  
6       visit in 2005, but I believe if it was not  
7       simultaneous, it was soon thereafter, to my  
8       recollection.

9           Q.       And that was after you had  
10       introduced into the marketplace the Old  
11       Salzberg cheese sold to International Gold Star  
12       trading; is that right?

13          A.       Correct.

14               MR. FRIEDMAN: Leading.

15               Just for the record, I made an  
16       objection that he is leading the witness.

17               MR. THOMPSON: I may be done, if you  
18       just give me two or three minutes to look  
19       over my notes and my papers.

20               MR. FRIEDMAN: Why not.

21               (Recess was taken from 11:17 to  
22       11:24.)

23               MR. THOMPSON: We are back on the  
24       record, Ms. Troyer. I have concluded my  
25       direct examination. I thank you for your

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2                   assistance and cooperation.

3                   THE WITNESS: You are very welcome.

4                   MR. THOMPSON: Mr. Friedman, your  
5                   witness.

6                   MR. FRIEDMAN: Can I just take two  
7                   or three more minutes to review?

8                   MR. THOMPSON: Sure. I'm sorry.

9                   (Recess was taken from 11:24 to  
10                  11:26.)

11                  EXAMINATION BY

12                  MR. FRIEDMAN:

13                  Q. Miss Troyer, my name is Samuel  
14                  Friedman and I represent Four Seasons Dairy.

15                  Are you represented by a lawyer  
16                  today?

17                  A. No.

18                  Q. We are here in a room with Roger  
19                  Thompson. Has he ever been your lawyer?

20                  A. No.

21                  Q. Has he been the lawyer for Bunker  
22                  Hill?

23                  A. No.

24                  Q. Are you aware that Mr. Thompson has  
25                  written correspondence representing that he is

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2       the lawyer for Bunker Hill?

3           A.       Okay.  Then evidently I am mistaken  
4       in my characterization of what representation  
5       is.  Because of the infringement that I believe  
6       has been perpetrated by Four Seasons and having  
7       been brought to our attention by Gold Star,  
8       allow me to suggest that I was mistaken in that  
9       context, because this would, in fact, be  
10      something that would and has negatively  
11      affected the business that Bunker Hill Cheese  
12      has done with Gold Star.  So my mistake.

13          Q.       So are you then changing your  
14      testimony to state that you are represented  
15      today by Mr. Thompson?

16          A.       Okay.

17          Q.       And when I say "Mr. Thompson," I am  
18      including his law firm, Cohen Pontani.

19                  MR. THOMPSON:  Cohen Pontani  
20                  Lieberman & Pavane.

21          A.       Okay.

22          Q.       Does that change your testimony in  
23      any way, the name of Mr. Thompson's law firm,  
24      Cohen Pontani, as opposed to Mr. Thompson  
25      himself, are you represented by both his firm

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2           and Mr. Thompson?

3           A.       My assumption is if I am being  
4           represented by Mr. Thompson as he is part of  
5           the law firm, they would also be accessible to  
6           represent my best interests.   Correct?

7           Q.       So it's your understanding then that  
8           you are represented by Mr. Thompson and his law  
9           firm, Cohen Pontani?

10          A.       Okay.

11          Q.       You say that the activities of my  
12          client, Four Seasons, have damaged Bunker Hill.

13          A.       Yes.

14          Q.       Are you referring to anything in  
15          particular when you say that?

16          A.       The opportunity to not have the  
17          consumer base in the Russian market be confused  
18          because of the very flagrant duplication and  
19          attempt, I believe, to confuse the consumer by  
20          Four Seasons so inappropriately producing  
21          labeling that is incredibly similar to the  
22          labeling produced by Bunker Hill Cheese.

23          Q.       Does Bunker Hill Cheese actually  
24          produce labels?

25          A.       Bunker Hill Cheese produces cheese

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2 which is labeled in such a way that it  
3 represents the values and the origin of the raw  
4 materials that we use to produce that product.  
5 By Four Seasons producing or marketing, rather,  
6 product, and they have solicited Minerva Dairy  
7 in Minerva, Ohio to produce a product similar  
8 to the product that is produced by Bunker Hill  
9 Cheese and purchased labels from an entity,  
10 represents --

11 Q. Which product are you referring to?

12 A. Yogurt cultured cheese and --

13 Q. What brand?

14 A. Heini's yogurt cultured cheese and  
15 also the product we produce for Gold Star  
16 marketed as Old Salzberg cheese.

17 Q. Okay. With respect to the brand  
18 Babushka's Recipe --

19 A. Yes.

20 Q. -- is it your understanding that any  
21 activities of Four Seasons are causing damage  
22 to Bunker Hill?

23 A. Yes.

24 Q. Now, when is it that Bunker Hill  
25 started selling cheese to International Gold

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2       Star?

3           A.       1998. It could be earlier, but my  
4       recollection would be 1998.

5           Q.       Were you asked at any time to look  
6       for documentation in connection with when  
7       Bunker Hill started selling cheese to  
8       International Gold Star?

9           A.       Probably.

10          Q.       And when was that that you were  
11       asked to look for the documentation?

12          A.       Repeat the question.

13          Q.       When? When were you asked to look  
14       for the documentation?

15          A.       You are asking for a date?

16          Q.       If you can roughly estimate. I will  
17       represent to you that this cancellation  
18       proceeding has been pending since 2004. Were  
19       you asked in the year 2004 to look for  
20       documentation?

21          A.       I don't remember a date, however, I  
22       do have recollection of the name Babushka's or  
23       references thereto that there was another  
24       organization inappropriately attempting to use  
25       that name to damage Gold Star. I know that's a

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2       very general answer, but that is my  
3       recollection to the degree that I can  
4       illustrate it today.

5           Q.       At this time you no longer have  
6       documentation that reflects when Bunker Hill  
7       started selling cheese to Gold Star; is that  
8       true?

9           A.       I'm not sure. It might -- it may be  
10      filed back among documents, not ones that I  
11      have accessible to me today at this location  
12      during this questioning.

13          Q.       Has Bunker Hill undertaken a  
14      diligent search for such documents if they  
15      exist?

16                 MR. THOMPSON: Objection to the  
17      form. I don't know that she would  
18      appreciate the legal definition of  
19      "diligent" in this context.

20          Q.       A thorough search.

21          A.       I'm not sure.

22          Q.       You are the spokesperson for Bunker  
23      Hill with respect to this legal proceeding;  
24      correct?

25          A.       Correct, but the search for

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2       documents that were produced to the invoicing  
3       and accounts payable, accounts receivable, I do  
4       not personally deal with the printing of those  
5       documents. Those would be under the  
6       jurisdiction of our accounts receivable clerk,  
7       whom I mentioned previously in this testimony  
8       is currently hospitalized, and also that of our  
9       office manager who would probably have items as  
10      old as seven years.

11                   MR. THOMPSON: For the record, I  
12                   will point out that the Notice of  
13                   Deposition, Exhibit 101, names Ms. Troyer  
14                   personally and not the corporation, so for  
15                   you to characterize her as a spokesperson  
16                   for Bunker Hill in these proceedings I  
17                   don't know is necessarily accurate. She  
18                   was called here as an individual witness,  
19                   not as a 30(b)(6) witness on behalf of a  
20                   corporation.

21                   MR. FRIEDMAN: I will accept that  
22                   representation.

23                   Q.       I'm sorry to hear that one of your  
24                   employees has been hospitalized, but prior to  
25                   the hospitalization were they asked to look for

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2       this documentation, as far as you know?

3           A.       Perhaps.

4           Q.       You don't know. And you are a vice  
5       president of Bunker Hill; correct?

6           A.       Yes.

7           Q.       Now, you do not -- your recollection  
8       of when Bunker Hill started doing business --  
9       started selling cheese to Gold Star is based  
10       upon reference to your daughter's age at the  
11       time?

12          A.       Yes.

13          Q.       And your daughter was born in 1996?

14          A.       Yes.

15          Q.       When in 1996?

16          A.       On June 3rd.

17          Q.       And you mentioned that your daughter  
18       was a toddler at the time.

19          A.       Yes.

20          Q.       When you say "toddler," what do you  
21       mean?

22          A.       Approximately the age of 2.

23          Q.       Okay. So then you would say that  
24       when your daughter was approximately 2 is when  
25       you first had contact with Gold Star?

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2           A.     I think that that would be an  
3 accurate estimate.

4           Q.     And when you say 2, would that  
5 include, for example, 2 and a half, 2 and  
6 three-quarters?

7           A.     Let's say prior to the year 1999, so  
8 she would have turned 3 in June of 1999 and it  
9 was well prior to that.

10          Q.     Was she in nursery school at the  
11 time?

12          A.     No, she was at home with me, because  
13 we did not put her into any kind of outside day  
14 care until she began attending preschool at the  
15 age of 4. I was a stay-at-home mom.

16          Q.     And I don't -- I just want to say  
17 that I don't mean to imply anything. I have  
18 young children myself.

19          A.     I take no offense at all.

20          Q.     I just wanted to establish a  
21 timeline.

22          A.     Thank you.

23          Q.     Okay. And then when Bunker Hill  
24 started selling cheese to Gold Star, it was no  
25 particular brand; correct?

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2           A.       It was the Heini's brand as  
3 mentioned, the vegetable yogurt cheese, and the  
4 smoked yogurt cheese, and then as mentioned  
5 previously in testimony, Galina had made an  
6 inquiry as to whether she could buy the  
7 original variety of yogurt cheese and I  
8 declined that because of my ethical stand on  
9 having given my word to other distributors. I  
10 informed her that if for some reason at some  
11 time in the future that they ceased purchasing  
12 that item, that that would be made available to  
13 her, but --

14           Q.       Did that time ever come?

15           A.       Yes.

16                   MR. THOMPSON: Excuse me,  
17 Mr. Friedman, I will ask you not to  
18 interrupt the witness when she is still  
19 answering.

20           A.       Yes, but to refer back to what I was  
21 explaining to you, because of the perceived  
22 palate predicated on Galina's expertise knowing  
23 her market, that being the Russian community,  
24 she had said that they liked to have something  
25 plain as well, which would substantiate not

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2           only the popularity of the original yogurt  
3           cheese that we had sold for years prior to  
4           Galina and I beginning our business  
5           relationship, but because of wanting to work  
6           with Gold Star and provide quality product that  
7           would be yet another option for sales into the  
8           Russian market.

9                   MR. FRIEDMAN: I would just like to  
10           move to strike this testimony as  
11           non-responsive. I would ask you to confine  
12           yourself to the question that's being asked  
13           of you and answer the question that's being  
14           asked.

15                   THE WITNESS: And that question is  
16           what?

17                   MR. FRIEDMAN: Shall we have the  
18           court reporter read back the question?

19                   THE WITNESS: Sure.

20                   (Record read.)

21           Q.       So Bunker Hill started selling  
22           cheese to Gold Star sometime before 1999, at  
23           the very end of 1998, based upon the age of  
24           your daughter as being about 2 and a half at  
25           that time; correct?

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2           A.       I believe it was prior to the end of  
3 1998, but I don't have the exact date of the  
4 first invoice.

5           Q.       And the cheese that Bunker Hill sold  
6 at that time when it just started selling  
7 cheese, what were those cheeses? Give me the  
8 names of the cheeses.

9           A.       Vegetable yogurt cheese and smoked  
10 yogurt cheese.

11           MR. THOMPSON: Just for form, you  
12 said when Bunker Hill first started selling  
13 cheese. Did you mean first started selling  
14 cheese to Gold Star, which I believe is  
15 what the witness understood --

16           MR. FRIEDMAN: Yes.

17           MR. THOMPSON: -- or when Bunker  
18 Hill first started selling cheese?

19           MR. FRIEDMAN: To Gold Star.

20           MR. THOMPSON: Just so the record is  
21 clear.

22           MR. FRIEDMAN: Thank you.

23           Q.       So it was the vegetable yogurt  
24 cheese and the smoked yogurt cheese. And at  
25 that time when Bunker Hill started selling this

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2 cheese to Gold Star, was Bunker Hill also  
3 selling that cheese, that same cheese, to  
4 anybody else?

5 A. The vegetable yogurt cheese and the  
6 smoked yogurt cheese?

7 Q. Let's talk about the vegetable  
8 yogurt cheese.

9 A. Yes, but not to distributors in the  
10 Russian market.

11 Q. So the exact same cheese was being  
12 sold to other food distributors; correct?

13 A. Outside the greater New York area,  
14 yes.

15 Q. For example, to whom else did Bunker  
16 Hill sell that exact same cheese?

17 A. The vegetable yogurt cheese?

18 Q. Yes.

19 **REDACTED**  
20  
21

22  
23 MR. THOMPSON: I would just like to  
24 ask the witness if she considers this  
25 information to be trade secret or -- if so,

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2                   would you like to have this portion of your  
3                   deposition marked as confidential?

4                   THE WITNESS: Yes, please.

5                   MR. FRIEDMAN: And pursuant to the  
6                   rules, I must treat it as confidential for  
7                   thirty days, during which time you can make  
8                   any designation you think is appropriate.

9                   THE WITNESS: However, any consumer  
10                  can walk into any of those entities and  
11                  find it there, but the channels of  
12                  distribution I would prefer not be revealed  
13                  to other businesses.

14                 Q.       And that list that you just gave was  
15                 a non-exclusive list of stores in or about 1998  
16                 or distributors in or about 1998 to whom you  
17                 sold the identical vegetable yogurt cheese that  
18                 you were selling to Gold Star, there were  
19                 others as well; correct?

20                 A.       Say that again, please.

21                 **REDACTED**  
22                 **REDACTED**  
23                 **REDACTED**

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# REDACTED

1  
2  
3  
4 Q. And I am going to ask you the same  
5 question with respect to the smoked yogurt  
6 cheese that you mentioned.

7 Were you also selling that to other  
8 distributors in 1998 apart from Gold Star?

9 A. Yes, but not in Brooklyn, New York  
10 or the greater New York area.

11 Q. Well, Brooklyn, New York and the  
12 greater New York area are two very different  
13 areas.

14 A. Okay.

15 Q. Do you equate them?

16 A. What would it be better to say? No  
17 other company that dealt directly with the  
18 Russian market in and about Brooklyn, New York.  
19 Okay? Does that clarify that a little bit?

20 Q. It does clarify it. Thank you. And  
21 I am going to show you -- we will have to have  
22 this marked.

23 MR. FRIEDMAN: Let's go off the  
24 record for just one second.

25 (Petitioner Exhibit 201, Heini's

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2           Original Yogurt Cheese label, marked for  
3           identification.)

4 BY MR. FRIEDMAN:

5           Q.     I am showing you this document --  
6           this thing marked as Petitioner's 201. Can you  
7           identify it?

8           A.     Yes. It is an older rendition of  
9           packaging that we used to use to represent  
10          Heini's original yogurt cheese.

11          Q.     Is that representative of the  
12          packaging in which Bunker Hill sold its yogurt  
13          cheese to Gold Star in 1998?

14          A.     I'd have to check to be absolutely  
15          sure, but I believe in 1998 we were still  
16          availing it under the Fountain of Youth  
17          branding until the FDA imposed -- I don't know  
18          what we call it -- a sanction on the use of  
19          that label. This -- I believe that this  
20          packaging would have been, this is from  
21          recollection, but probably after 1998, probably  
22          between say '98 and '03.

23          Q.     What is between '98 and '03?

24          A.     This rendition of the yogurt cheese  
25          packaging. As mentioned, I'd have to check the

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2       records, but we were very actively marketing  
3       this item under the name Heini's Fountain of  
4       Youth, however, the FDA required that we ceased  
5       using that terminology because they felt  
6       perhaps consumers might think it would actually  
7       make them younger by consuming it.

8           Q.       This packaging reflects Fountain of  
9       Flavor; correct?

10          A.       Correct.

11          Q.       Fountain of Youth you think that  
12       Bunker Hill stopped using at what period of  
13       time?

14          A.       1998, 1999. I'd have to go back and  
15       look at the original letter received by the FDA  
16       in our office. We were given the opportunity  
17       to use some of the stock that we had in  
18       inventory until the final determination was  
19       made, but somehow, by my recollection today, I  
20       am thinking 1999 or 2000, but I well could be  
21       mistaken, but prior to this package and what  
22       had been in the Russian market for several  
23       years, which I believe would have been  
24       inclusive of 1998, would have been labeling  
25       that referred to it as Heini's Fountain of

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2 Youth.

3 Q. So is it fair to say then that it  
4 would have been quite similar to Petitioner's  
5 201, apart from the Fountain of Youth  
6 depiction?

7 A. Please rephrase that.

8 Q. Heini's own brand of labeling for  
9 the yogurt cheese would have been similar to  
10 what is marked here as Petitioner's 201, apart  
11 from 201 having Fountain of Flavor, it would  
12 have said fountain of youth?

13 A. It would have said, and I am  
14 pointing to document Exhibit 201, that above  
15 the artwork of the fountain, it would have said  
16 Heini's Fountain of Youth instead of saying  
17 Heini's Original Yogurt Cheese. That would be  
18 the difference in that packaging.

19 Q. You mentioned that Bunker Hill owns  
20 a trademark for yogurt cheese; is that correct?

21 A. My sister, LeeAnne Martin, and  
22 myself own the trademark on the phrase for  
23 semisoft cheese and cheese spreads as  
24 classified in the FDA register "yogurt  
25 cultured."

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2           Q.       Yogurt cultured cheese?

3           A.       That phraseology is not present on  
4 that package because the standard of identity  
5 at that point in time when that package was  
6 being used, Exhibit 201, was not in question.  
7 That was another FDA issue that came after the  
8 year 2000.

9           Q.       At the time that Bunker Hill was  
10 selling the yogurt cheese to Gold Star in 1998,  
11 was Bunker Hill also selling cheese to Beluga  
12 Caviar?

13          A.       Yes.  However, we were selling -- we  
14 were not selling vegetable yogurt cheese or  
15 smoked yogurt cheese to them.  They had not  
16 requested those products and so we -- no, let  
17 me rephrase that.  I felt it appropriate to  
18 make those items available to Gold Star because  
19 they were non-competing items.

20          Q.       Which items are you referring to?

21          A.       The vegetable yogurt cheese and the  
22 smoked yogurt cheese.  Beluga Caviar, to my  
23 recollection, did not want those items.  That's  
24 why I felt that that was okay to sell them to  
25 Gold Star.

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2 Q. Were you selling other cheeses to  
3 Beluga Caviar at the time in 1998?

4 A. We were selling the original yogurt  
5 cheese and a tomato basil yogurt cheese and I  
6 think a jalapeno pepper, but I can't say for  
7 absolutely sure.

8 Q. Is it fair to say that Beluga Caviar  
9 serves the Russian market?

10 A. Yes, but they no longer serve the  
11 Russian market.

12 Q. But in 1998, at the time in  
13 question, they did; correct?

14 A. Yes, but I cannot remember how soon  
15 thereafter we ceased doing business with them,  
16 because they were indebted and never paid, so I  
17 don't know when those dates were.

18 Q. Now, were there other entities in  
19 the New York area in 1998 to whom Bunker Hill  
20 also sold cheese, any kind of cheese?

21 A. In the New York area?

22 Q. Yes.

23 **REDACTED**

24 **REDACTED**

25 They

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2       purchased the original flavor in our packaging,  
3       which at that point in time probably still said  
4       Heini's Fountain of Youth.

5           Q.       Now, there came a time that rather  
6       than provide cheese to Gold Star in Heini's  
7       packaging that you started affixing a label  
8       that Gold Star supplied to you; correct?

9           A.       Correct.

10       Q.       Did the product itself change in any  
11       way that you were supplying to Gold Star at the  
12       time that you started affixing Gold Star's  
13       labeling?

14       A.       The Babushka's Recipe product, which  
15       I believe that's what you are making inference  
16       to, was a variation with the basis of the  
17       product being a Havarti-style cheese with the  
18       yogurt culture blend as an ingredient, thus us  
19       terming it Havarti Yogurt Cheese.

20       Q.       Is that the only kind of cheese that  
21       you sold to Gold Star under the Babushka's  
22       Recipe label?

23           MR. THOMPSON:   In what time frame?

24       Q.       In terms of time frame -- let's go  
25       back to the beginning -- I believe that your

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2 testimony, and please correct me if I am wrong,  
3 was that it was around or about that date on  
4 the label on Respondent's 103? Let me just  
5 show you 103. I believe you looked at that  
6 handwriting on the upper left, you could not  
7 recognize the handwriting, but yet it somehow  
8 refreshed your recollection that that's about  
9 when you started selling cheese to Gold Star  
10 and affixing a Babushka's Recipe label to it?

11 A. Yes. If that's the way you -- yeah,  
12 that's what -- I stand by what I said, yes.  
13 But --

14 Q. Okay. So I am talking then about  
15 this time frame of mid 1999. Was it a special  
16 product for Gold Star or was it the same  
17 product that you had been selling under the  
18 Heini's label?

19 A. It was a special product formulated  
20 for exclusive use by Gold Star because of what  
21 I had mentioned previously, wanting a  
22 non-flavored, and when I say non-flavored, no  
23 addition of vegetables or peppers or anything  
24 like that.

25 Q. And that's the Havarti cheese. Now,

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2 were there other cheeses that you sold to Gold  
3 Star that were not recipes formulated for Gold  
4 Star?

5 MR. THOMPSON: And, again, we are  
6 talking about that same time frame?

7 MR. FRIEDMAN: That same time frame,  
8 1999. Talking about the beginning.

9 A. The availability of the other  
10 products that Babushka's Recipe labeling was  
11 developed for would have been impacted by the  
12 length of time we continued doing business with  
13 Beluga Caviar until they defaulted on the  
14 balances owed to us. I do not have a date in  
15 my mind. Bearing in mind, though, that when  
16 Galina first presented the name "Babushka" in  
17 our conversations, it was one of those things  
18 where the introduction of that concept to me  
19 was probably kind of running hand in hand with  
20 the initial development of our business of her  
21 selling vegetable yogurt cheese and smoked  
22 yogurt cheese. Many of Galina's conversations  
23 with me, we are always in a development mode,  
24 so I would feel very safe in saying that the  
25 discussions about Babushka's Recipe products

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2       ensued far before that July date in 1999, but  
3       because of, you know, day by day -- day in/day  
4       out business and bringing an idea to market  
5       sometimes, you know, there is time in between  
6       the introduction of that idea and it being  
7       brought to market, but that name had been  
8       introduced to me before that time.

9           Q.       Would it then be your testimony that  
10       the date of July 12, 1999 might have simply  
11       been a date that you and Galina were in the  
12       development phase of your --

13          A.       No, I believe by that time we were  
14       already ready to go with that item.

15          Q.       "We" being Bunker Hill?

16          A.       Yes, because --

17          Q.       When you give the testimony now, you  
18       are testifying on behalf of Bunker Hill?

19               MR. THOMPSON:  Objection.  I don't  
20       know that you can ask her to draw that  
21       legal conclusion, if she is testifying on  
22       behalf of Bunker Hill.  I will point out  
23       she is an officer of Bunker Hill and she  
24       has personal knowledge of events that  
25       occurred and she can testify of her

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2                   personal knowledge of what happened, but  
3                   that doesn't mean she is testifying on  
4                   behalf of her corporate employer. So I  
5                   would object to that characterization.

6                   MR. FRIEDMAN: Very well.

7                   Q.       Is it fair to say you were the  
8                   primary person at Bunker Hill with  
9                   responsibility for dealing with the Gold Star  
10                  account?

11                  A.       Yes.

12                  Q.       So you had the greatest knowledge at  
13                  Bunker Hill with respect to dealings with Gold  
14                  Star?

15                  A.       Yes, in the context of conversation  
16                  and communicating the intentions of product  
17                  development, yes. As far as the actual date of  
18                  invoicing and the manufacturing production  
19                  date, that would be the responsibility of the  
20                  one that is managing the manufacturing plant,  
21                  and then we put into, you know, the  
22                  manufacturing docket, you know, when -- the day  
23                  we make it, those items would probably be  
24                  logged, and that would be something that I  
25                  don't know how far back those manufacturing

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2 records go.

3           Q.     Did you ever have occasion to see  
4 the Babushka's Recipe labels being affixed to  
5 the product produced by Bunker Hill?

6           A.     I saw finished product with that  
7 label on, yes.

8           Q.     Did you see that in the --

9           A.     Did I stand in the production  
10 line --

11           THE COURT REPORTER: I can't take  
12 two people at the same time.

13          Q.     I appreciate your willingness to be  
14 forthcoming in your answers, but if we could  
15 confine it more to you answering the question  
16 that's asked, we will get through this much  
17 faster.

18          A.     That's fine.

19          Q.     In the year 1999 did you see the  
20 Gold Star cheese product with the Babushka's  
21 Recipe label affixed to the product, you  
22 personally?

23          A.     I believe I did.

24          Q.     But you are not sure?

25          A.     I'd say I'm 99.5 percent sure.

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2           Q.       Okay.  That's fair.

3                   Yet up until the default of Beluga  
4 Caviar, as you have characterized it, you were  
5 selling some of the same products to Gold Star  
6 under the Babushka's Recipe that you were  
7 selling to Beluga Caviar; true?

8           A.       Say that again.

9           Q.       I will break it down for you.

10                   Bunker Hill was doing business with  
11 Beluga Caviar; correct?

12          A.       Correct.

13          Q.       You have mentioned that Beluga  
14 Caviar at some point defaulted in obligations  
15 to Bunker Hill?

16          A.       Correct.

17          Q.       At around that point Bunker Hill  
18 stopped doing business with Beluga Caviar?

19          A.       Correct.

20          Q.       But there was a time that Bunker  
21 Hill was selling cheese both to Beluga Caviar  
22 and to Gold Star; correct?

23          A.       Yes.

24          Q.       Now, was there a time that Bunker  
25 Hill was selling cheese to Gold Star and

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2 affixing the Babushka's Recipe label to it that  
3 Bunker Hill was also selling the cheese to  
4 Beluga Caviar but under a different label?

5 A. No.

6 Q. So the cheese that was sold to Gold  
7 Star was always a -- it is your testimony that  
8 the cheese sold by Bunker Hill to Gold Star  
9 under the Babushka's Recipe label was always a  
10 unique recipe?

11 A. In reference to the Havarti Yogurt  
12 Cheese, that being the first product introduced  
13 to market with the Babushka's Recipe labeling.  
14 Now, after the default of Beluga Caviar --

15 Q. I have to ask you to stop for a  
16 minute. Now, I am not limiting my question to  
17 Havarti Yogurt Cheese. I am speaking about  
18 cheese in general.

19 Was there ever a time that Bunker  
20 Hill was selling the same cheese to Beluga  
21 Caviar that it was selling to Gold Star?

22 A. Simultaneously?

23 Q. At the same time period. I am not  
24 saying on the same day exactly, but in the same  
25 period of time.

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2           A.     I would say no.

3           Q.     But you are not sure?

4           A.     I don't know why we would have,  
5     seeing that I was not willing to sell Galina  
6     things that I was selling to other people. Why  
7     would I contradict myself and sell something --  
8     I don't -- that's -- I kind of just -- I try to  
9     be consistent in the dealings that I have with  
10    my clients. It's an integrity issue for me.

11          Q.     I just need to test your  
12    recollection and knowledge. That's all I am  
13    doing. I am not implying anything about your  
14    integrity or lack of integrity or anything of  
15    that sort.

16          A.     No offense taken, sir.

17          Q.     Did Bunker Hill continuously sell  
18    Havarti Yogurt Cheese to Gold Star from '99 to  
19    present?

20          A.     The documentation of invoicing would  
21    let us know the quantity and the frequency of  
22    the sale of that product, but I would say yes,  
23    we continue to sell to Gold Star product in  
24    that recipe format.

25          Q.     And would it be your testimony that

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2       Bunker Hill was during all of this time period  
3       from '99 to present applying the Babushka's  
4       Recipe label to the product?

5           A.       I do not see the packaging line  
6       affixing the label week in and week out, so I  
7       don't feel that I can give a very specific  
8       answer to that.

9           Q.       Well, then apart from a very  
10       specific answer, were there any, as far as you  
11       recollect, any interruptions in the sales of  
12       the product to Gold Star?

13          A.       I don't know when that would have  
14       occurred.

15          Q.       Do you know when, if ever, Gold Star  
16       started selling Babushka's Recipe brand cheese  
17       to any of its customers?

18               MR. THOMPSON: Can I just have that  
19       read back.

20                   (Record read.)

21          A.       I would say beginning in calendar  
22       year 1999.

23          Q.       Do you have any personal knowledge  
24       of that apart from what you might be assuming?  
25       Do you know for a fact when they started?

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2           A.       Whenever the first invoice would  
3 have been made, which, again, I assume to be  
4 calendar year 1999.

5           Q.       Whose invoice are you referring to  
6 when you say "the first invoice"?

7           A.       Bunker Hill Cheese invoicing Gold  
8 Star.

9           Q.       Okay. So you are assuming that that  
10 is when Gold Star would start selling to its  
11 customers?

12          A.       I don't read all the invoices that  
13 are produced at our company.

14          Q.       Was Bunker Hill involved in Gold  
15 Star's sales of Babushka's Recipe to Gold  
16 Star's customers or was your role limited to  
17 supplying the product to Gold Star?

18          A.       Our sales force did not solicit her  
19 clients directly.

20          Q.       And did your sales force ever  
21 actually sell Gold Star's products?

22          A.       No.

23          Q.       Your sales force never sold products  
24 with the name Babushka's Recipe; true?

25          A.       We supply the product to Gold Star



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2 A. We continued to sell the original  
3 yogurt cheese variety that we had sold to them  
4 previously. As stated, the relationship  
5 development with Gold Star began selling  
6 vegetable yogurt cheese, smoked yogurt cheese  
7 and soon thereafter the development of the  
8 Havarti Yogurt Cheese, which based on the  
9 knowledge of events was introduced to the  
10 Russian market under the Babushka's Recipe  
11 labeling.

12 Q. And can you tell me in what manner  
13 Havarti Yogurt Cheese differs from the cheese  
14 that you were selling to **REDACTED** and  
15 **REDACTED** and **REDACTED** ?

16 A. Havarti yogurt cheese has a higher  
17 fat content. Original yogurt cheese  
18 nutritional facts would be stated as 8 grams of  
19 fat per one ounce serving and 140 milligrams of  
20 sodium. Havarti Yogurt Cheese would be 9 grams  
21 of fat per serving and I believe 170 milligrams  
22 of sodium per serving. The butter fat content  
23 in Havarti style cheese differs from the fat  
24 content in the original yogurt cheese recipe.

25 Q. Did there come a time that Bunker

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2 Hill started selling additional cheeses to Gold  
3 Star to affix under their Gold Star label apart  
4 from the Havarti cheese?

5 MR. THOMPSON: Could I have that  
6 question read back.

7 MR. FRIEDMAN: Shall I rephrase the  
8 question.

9 MR. THOMPSON: Please.

10 Q. After Bunker Hill started selling  
11 Havarti cheese to Gold Star, did it sell  
12 additional cheeses to Gold Star?

13 A. Yes.

14 Q. And what were they?

15 A. Upon the default of Beluga Caviar we  
16 as a company under my recommendation appointed  
17 Gold Star as the exclusive master distributor  
18 for the Russian market and at that point in  
19 time -- okay. The designation of Gold Star as  
20 the master distributor was after we -- after  
21 the default of Beluga Caviar, therefore, the  
22 original yogurt cheese that had been sold to  
23 Beluga Caviar was then made available to Gold  
24 Star, and because of the proactivity of her  
25 sales force and the measure of sales, that

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2       fortunately we didn't lose even though the  
3       other company had defaulted, and the ease of  
4       doing business with Gold Star because of their  
5       integrity and their ability to pay within terms  
6       and it was just a far more positive business  
7       relationship, under my recommendation the  
8       company chose to designate them as the master  
9       distributor in the Russian market.

10           Q.       Can you put a time frame on that,  
11       when that happened?

12           A.       That would have been -- I know that  
13       designation was prior to 2003.  Exact date, I  
14       don't have it, but my marketing director,  
15       Robert Walker, would have that documentation in  
16       his file, because -- I think it might have been  
17       in 2001, because Robert Walker and my husband,  
18       Robert Troyer, and I went to visit Robert and  
19       Galina Pincow at the Gold Star corporate office  
20       and thus negotiated what we felt was in the  
21       best interests of those companies and thus  
22       assigning Gold Star as the master distributor  
23       in the Russian market and from that point on  
24       everything basically was directed to their  
25       business because of what I had mentioned.

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2           Q.       Was there a lawsuit between Bunker  
3 Hill and Beluga Caviar with respect to the  
4 default of Beluga Caviar?

5           A.       No. My father chose to instead of  
6 invest his time and resources into filing a  
7 lawsuit, take those funds and be proactive in  
8 supporting the marketing efforts of Gold Star  
9 and other broker network clients and so forth  
10 that we had already been working with. It's  
11 not our, you know, desire to -- it wasn't his  
12 desire to do that.

13          Q.       Was this default of Beluga Caviar  
14 that you mentioned, was it at or about the time  
15 that Beluga Caviar went out of business?

16          A.       Probably, because they were  
17 non-responsive to telephone calls and the  
18 outstanding invoices, I think, amounted to  
19 around \$180,000, and when we tried to collect,  
20 there was not any, you know -- they unplugged  
21 the phone.

22          Q.       I am still just asking a few  
23 questions to try to get the time frame on the  
24 master distributor agreement with Gold Star.

25                   Now, let me just ask you in

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2 relationship to 9-11-2001, September 11th, the  
3 trip that you and your husband, I believe, took  
4 to New York --

5 A. It probably was soon thereafter.

6 Q. It was after 9-11?

7 A. Yes.

8 Q. At the time that Galina Pincow  
9 introduced you to her concept of a Babushka's  
10 Recipe brand, were you aware of any other food  
11 stuffs for the Russian market having the name  
12 Babushka or Babushkino?

13 A. Like a soft cheese, like a cheese  
14 unlike what we manufacture, like a -- I don't  
15 know, a spreadable -- I mean, it's -- we  
16 manufacture semisoft cheeses. Having learned  
17 about the palate of the Russian market, there  
18 is a soft white cheese which I would  
19 characterize probably similar to a fresh  
20 mozzarella, but not exactly, and that to my  
21 recollection was already being marketed under  
22 the -- that brand prior to the introduction of  
23 the Havarti Yogurt Cheese under the Babushka's  
24 Recipe brand.

25 MR. THOMPSON: When you were

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2                   referring to that brand, you were pointing  
3                   to something. Could you just state for the  
4                   record what you were pointing to?

5                   THE WITNESS: Exhibit 103.

6                   Q.       Do you know what company was selling  
7                   the soft mozzarella cheese under the name  
8                   Babushka or Babushkino?

9                   A.       It was not soft mozzarella cheese,  
10                  it was something similar, but no, I am not  
11                  acquainted with that manufacturer.

12                  Q.       Were you aware of any other cheeses  
13                  being sold with the name Babushka or Babushkino  
14                  prior to Galina introducing her concept to you?

15                  A.       Any other in addition to what I have  
16                  already said? No.

17                  Q.       Right.

18                  A.       I mean, the name -- I don't -- I  
19                  don't know.

20                  Q.       You don't know --

21                  A.       I don't know if she was selling one  
22                  product or ten products, but we were not --

23                  Q.       When you say "she" --

24                  A.       Galina from Gold Star. I know that  
25                  the Havarti Yogurt Cheese was not the first

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2       product sold under the Babushka's Recipe brand.

3       That is my understanding.

4           Q.       I am asking you with respect to  
5       other companies apart from Gold Star.

6                   My question is when Galina  
7       introduced her concept of Babushka's Recipe for  
8       cheeses to you at Bunker Hill, were you aware  
9       of other cheeses being sold in the marketplace  
10      under the name Babushka's or Babushkino?

11          A.       No.

12          Q.       But you mentioned that there was a  
13      soft mozzarella cheese being sold.

14          A.       No, no, no.

15          Q.       Okay. Please correct me.

16          A.       Let me clarify that. That soft type  
17      of cheese it's my understanding was sold under  
18      the Babushka's Recipe through Gold Star, okay,  
19      and I was not aware of any other company  
20      outside of Gold Star selling anything like  
21      that, and having dealt with Russian market  
22      distributors for years prior to that I have no  
23      recollection of hearing any of them discuss  
24      anything related to a Babushka product with me.

25          Q.       Okay. So that your knowledge of the

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2 Russian marketplace at the time was based upon  
3 your discussions with your clients, with

4 **REDACTED** ?

5 A. **REDACTED**

6 **REDACTED**, which had sold hundreds of thousands of  
7 dollars of product from like 1993, maybe even  
8 '92, until --

9 Q. This is Beluga Caviar you are  
10 talking about?

11 A. Yes, those three distributors, the  
12 three ones mentioned previously, had sold  
13 hundreds of thousands of dollars of our product  
14 to the Russian market prior to our relationship  
15 development with Gold Star and I have no  
16 recollection that any one of those three, who  
17 were very primary in that market, selling any  
18 product under that name or an inference of that  
19 name.

20 Q. But your testimony is limited to  
21 that product. I am talking about --

22 A. No, I am talking about the name.

23 Q. I am talking about any food stuff.

24 Do you know whether Eastern Star sold any food  
25 stuff under a name Babushka's or Babushkino at

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2           any time?

3           A.       I am not familiar that they did and  
4           they never approached us about manufacturing  
5           anything under that label.

6           Q.       But you don't know one way or the  
7           other whether they did or didn't?  And I am not  
8           limiting this to cheese.  I am just asking you  
9           about the name Babushka's in the Russian  
10          marketplace.

11          A.       That name was introduced to me by  
12          Galina.

13          Q.       Introduced to you by Galina.  And  
14          that's the limit of your knowledge with respect  
15          to that name.  Is it fair to say that you do  
16          not know whether the name Babushka's was a  
17          common name for food stuffs in the Russian  
18          marketplace?

19          A.       This is just an opinion, but with  
20          the extensive interaction that I had for --

21          Q.       I am not asking for opinions.

22                   MR. THOMPSON:  She is trying to --

23          A.       I am trying to substantiate why my  
24          thought process is as it is.

25          Q.       I am not asking for opinion

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2       testimony. You are not testifying as an expert  
3       witness. This is fact testimony.

4           A.       This is fact. For years I dealt  
5       with Alex Lembersky from Beluga Caviar. He was  
6       always trying to develop new items. I believe  
7       that he would be somebody that at that time  
8       period was considered a driving force in the  
9       product development in the Russian market. I  
10      have no recollection of him ever mentioning any  
11      products bearing that name or anything similar  
12      to it, which it's my assertion, and I know you  
13      are not asking for my opinion, but having dealt  
14      with somebody for such a length of time and  
15      having been inquired upon could we do this and  
16      could we do this and could we do this, he never  
17      asked me to produce anything either labeled  
18      that way -- because he did receive private  
19      label product from us under his brand --  
20      secondary brand called Healthy Sensation. That  
21      labeling had to be restricted because the FDA  
22      took issue with that phraseology. So him, in  
23      my opinion, having been an expert in marketing  
24      to the Russian market, cheese, food, whatever,  
25      that name was never brought to me by him and

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2       he, you know, having -- his final invoice  
3       having been \$180,000, most of his invoices over  
4       the years were close to that, and take that  
5       times five years, he sold an awful lot of  
6       product and that was never presented to me as  
7       something that he desired to have manufactured  
8       or labeled as such.

9           Q.       Thank you. At what point in time  
10       did you first become familiar with a company by  
11       the name of Four Seasons Dairy?

12          A.       Well, when -- specifically when --  
13       packaging representative of Exhibit 110 would  
14       be 2005, however, for several years prior to  
15       that there were several different companies  
16       from the Brooklyn, New York area that would  
17       call us and inquire as to whether or not they  
18       could purchase yogurt cheese, you know, you  
19       name it, anything that had been previously sold  
20       in the Russian market, there was always another  
21       distributor wanting to buy from us, but my  
22       stock answer after appointing Gold Star as the  
23       master distributor for the Russian market was  
24       "you need to call Galina at Gold Star." She is  
25       the one who deals with that.

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2 Q. Thank you. I need to repeat the  
3 question.

4 When did you first become aware of  
5 Four Seasons Dairy?

6 A. In 2005.

7 Q. Are you familiar with a company by  
8 the name of A&O Corporation?

9 A. No.

10 Q. Can you itemize for me, just give me  
11 a list of the additional cheeses, if any, that  
12 Bunker Hill provides to Gold Star apart from  
13 the Havarti Yogurt Cheese?

14 A. Original yogurt cheese, which --  
15 let's say original yogurt cultured cheese,  
16 vegetable yogurt cultured cheese, garlic yogurt  
17 cultured cheese, lacy baby swiss, Old Salzberg,  
18 Hunter's cheese, raw milk cheddar, smoked  
19 yogurt cheese. And then you said in addition  
20 to the Havarti yogurt cheese?

21 Q. Yes.

22 A. There is a -- there might be more.  
23 I -- that's just from memory. I don't have an  
24 invoice in front of me, but substantial  
25 variety.

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2           Q.     Do you recollect approximately when  
3 the original yogurt cheese you started  
4 providing to Gold Star?

5           A.     As soon as we stopped doing business  
6 with Beluga Caviar.

7           Q.     So is it fair then to say that with  
8 respect to that entire list that you just gave  
9 me, it would be when you stopped doing business  
10 with Beluga Caviar?

11          A.     The lacy baby swiss, the Old  
12 Salzberg, it may well have been prior to that.  
13 I don't have an invoice.

14          Q.     Forgive me. I think that I did not  
15 properly limit my question. I am referring to  
16 the Babushka's Recipe brand. Not, for example,  
17 the Salzberg brand.

18                   So apart from the Havarti Yogurt  
19 Cheese that Bunker Hill is selling or has sold  
20 to Gold Star under the Babushka's Recipe brand,  
21 are there other cheeses that Bunker Hill sells  
22 to Gold Star under a Babushka's Recipe brand?

23          A.     I'm not sure. That would be -- when  
24 Galina's personnel places the order with my  
25 wholesale personnel, she designates what

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2     labeling, you know, because it's like there  
3     might be some of her clients that want -- you  
4     know, the Russian market clients, that she  
5     wants to designate a certain amount of  
6     inventory under Babushka. Then there might  
7     be -- I mean, even though she is the designated  
8     distributor for the Russian market, she does  
9     have a client base outside the Russian market,  
10    so she implements our branding, the Heini's  
11    brand, into some of those other venues. The  
12    percentage of that I guess you would have to  
13    look at her billing to her clients to  
14    distinguish -- to be able to discern what that  
15    is.

16           Q.     Do you know whether Four Seasons  
17    sells other dairy products under the Babushka's  
18    Recipe brand that are not acquired from Bunker  
19    Hill?

20           A.     Excuse me?

21           Q.     Does Gold Star sell other dairy  
22    products under the Babushka's Recipe brand that  
23    are not acquired from Bunker Hill?

24           A.     My assumption is yes, they do,  
25    because they had done that prior to us

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2 producing that item. Because when that idea  
3 was proposed to us, I never was given the  
4 impression that this was -- that the Bunker  
5 Hill product was the launching product for the  
6 Babushka line. It was already present prior to  
7 our participation in it.

8 Q. I am referring to dairy products. I  
9 am not --

10 A. Yeah, well, I think I had mentioned  
11 to you my knowledge of -- understanding that  
12 there was that soft cheese.

13 Q. The mozzarella-like cheese?

14 A. And that would have been prior to  
15 that 1999 date. See, I was confused because  
16 you had asked about Four Seasons and I don't  
17 sell to Four Seasons.

18 Q. Have you ever testified at  
19 deposition before today?

20 A. In insurance cases concerning Bunker  
21 Hill Cheese, but -- you know, a couple of  
22 times.

23 Q. It's fair to say then it was two or  
24 three times that you have testified at  
25 deposition?

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2           A.       Probably.  Not in recent years.

3           Q.       Have you testified at trial?

4           A.       No.

5           Q.       Did you do anything to prepare for  
6 today's deposition?

7           A.       Just reflecting in my own memory  
8 some of the events.  This is something that I  
9 was invited to come to give my testimony -- was  
10 it a week ago Friday.  I think that's when you  
11 placed the call to my office to ask me to  
12 appear, and between this -- that time and this  
13 time I've been like really busy.  I haven't  
14 looked at a lot of documents or anything like  
15 that other than just briefly conferring with  
16 Roger about today's appointment, but it was not  
17 anything that I would consider to be extensive  
18 preparation.  The information I am giving you  
19 is basically from memory.

20           Q.       So you discussed the subject matter  
21 of your testimony today with Miss Pincow before  
22 coming in; correct?

23           A.       Well, most -- the majority of the  
24 discussion concerning anything to do with Four  
25 Seasons was probably soon thereafter

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2       Exhibit 110's packaging was made available to  
3       me. This is not something that --

4           Q.       Back in 2005? You are talking about  
5       2005 now?

6           A.       Right. This isn't --

7           Q.       I am talking about within the past  
8       week.

9           A.       Basically reviewing what we already  
10      knew prior to that.

11          Q.       You reviewed that with Miss Pincow?

12          A.       Yes. There was no new information.

13          Q.       Did you review it with Mr. Thompson?

14          A.       Very briefly, but there was no new  
15      information. Perhaps I'm a negligent vice  
16      president.

17          Q.       I wouldn't say that.

18                   Referring you to Exhibit 103, do you  
19      recognize that handwriting, 7/12/99?

20          A.       No.

21          Q.       Apart from the product sold by Four  
22      Seasons Dairy called Amish Gourmet and apart  
23      from Bunker Hill's dairy products with a horse  
24      and carriage on it, have you ever seen any  
25      other dairy products being sold with a horse

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2           and carriage on the labeling?

3           A.       Yes.

4           Q.       Is it fair to say that it's quite  
5           common in the marketplace to see dairy products  
6           sold with a horse and carriage label?

7           A.       Yes, but not represented in such a  
8           similar fashion to my product.

9           Q.       Are you aware that there are many  
10          registered trademarks for horse and carriage  
11          designs for dairy products?

12          A.       Yes.

13          Q.       And if I understood your testimony  
14          correctly, it was your sister that took the  
15          photograph at a farm --

16          A.       At the Mount Hope Auction Barn in  
17          Mount Hope, Ohio as demonstrated on  
18          Exhibit 104.

19          Q.       And this was in what year that your  
20          sister took the photograph?

21          A.       2003.

22          Q.       And that is represented on 104. And  
23          the design that you claim is very similar is  
24          represented on Registrant's Exhibit 110; is  
25          that correct?

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2 A. Correct. And Exhibit 110's label  
3 would have been produced after the fact of  
4 Exhibit 104, because of the obvious phraseology  
5 that was also duplicated, as well as the  
6 concept of the label.

7 Q. You have testified that you and, I  
8 believe, your sister own a trademark for yogurt  
9 cultured cheese?

10 A. Yes, the words "yogurt culture" in  
11 the application of semisoft cheeses and cheese  
12 spreads, and, again, that was filed by Lee  
13 Beitchman in Atlanta.

14 Q. I am looking at the packaging of  
15 Registrant Exhibit 104. I do not see an R with  
16 a circle anywhere near the "yogurt cultured" --

17 A. That bag would have been produced  
18 prior to the final ruling of that wording. I  
19 don't know how long Mr. Thompson has had that  
20 bag on file, but I do believe that those  
21 that -- the first run we did not claim  
22 trademark immediately because we were waiting  
23 for final ruling from the FDA, but we did not  
24 want to cease the production of the product, so  
25 the FDA gave us permission to in the interim

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2 use the phraseology "yogurt cultured." As soon  
3 as they gave us final approval, we then applied  
4 for the trademark, and those documents would be  
5 date traceable to Mr. Beitchman's office.

6 Q. Okay. And precisely who are the  
7 owners of this mark?

8 A. Myself and my sister, LeeAnne  
9 Martin.

10 MR. THOMPSON: Just to be clear, by  
11 "this mark" you are referring to "yogurt  
12 cultured"; is that right, Mr. Friedman?

13 THE WITNESS: Yes.

14 MR. FRIEDMAN: Yes.

15 Q. LeeAnne Martin?

16 A. Yes. And the determination of that  
17 phraseology was developed in association with  
18 the approval of the FDA, because there is no  
19 standard of identity for the name "yogurt  
20 cheese" and thus they deem anybody using that  
21 phraseology specifically to be in error.  
22 That's why we changed it on our bag.

23 Q. I don't see the designation TM in a  
24 circle near the "yogurt cultured" --

25 A. As I mentioned to you --

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2           Q.       You have to allow me to finish the  
3 question before you start talking. That's the  
4 rule of a deposition.

5                   There is no TM in a circle near it.  
6 Is that correct; yes or no?

7           A.       On Exhibit 104?

8           Q.       Correct.

9           A.       Yes.

10          Q.       Are you aware that Mr. Thompson sent  
11 a letter complaining of Four Seasons' use of  
12 the horse and buggy carriage on their cheese  
13 product --

14                   MR. THOMPSON: I'm sorry, were you  
15 through with the question?

16                   MR. FRIEDMAN: No, just give me one  
17 second to look through my record.

18          Q.       Are you aware that Mr. Thompson sent  
19 a letter complaining of Four Seasons' use of  
20 the horse and buggy packaging as depicted on  
21 Exhibit 110 complaining that it is confusingly  
22 similar to the design depicted on Registrant's  
23 Exhibit 106?

24          A.       Was I copied on that correspondence?

25          Q.       Were you aware of it, of the fact

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2       that he was sending a letter complaining of its  
3       use?

4           A.       I know that there was notification  
5       given to Four Seasons that we felt they were  
6       trying to confuse the consumer by having  
7       similar labeling.

8           Q.       So you were aware that Mr. Thompson  
9       was sending correspondence on behalf of Bunker  
10      Hill with respect to a complaint about Four  
11      Seasons?

12          A.       I'm sure that if I was copied on  
13      that, I would say yes, I am aware of that.

14          Q.       See, that's not the question.  It's  
15      whether -- do you know or not?  You are making  
16      an assumption that you were copied on it.  
17      Don't make assumptions.  Just answer the  
18      question.

19                   MR. THOMPSON:  And I would  
20      appreciate your not taking quite that tone  
21      with the witness.

22          A.       Have I read correspondence that  
23      Mr. Thompson sent to Four Seasons?

24          Q.       That's not the question.

25          A.       Yes.

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2                   MR. FRIEDMAN: Let's read back the  
3 question.

4                   And with respect to your comment  
5 about my tone, Mr. Thompson, I take issue  
6 with your characterizing my tone as  
7 anything but relaxed.

8                   MR. THOMPSON: Well, I would  
9 disagree with your characterization.

10                  MR. FRIEDMAN: Very well. Let's  
11 move on.

12                  Read back the question.

13                  (Record read.)

14                  A. I will answer yes.

15                  Q. And are you aware that Four Seasons  
16 by its counsel sent a letter in response to  
17 Mr. Thompson detailing the many differences  
18 between the packaging on the Four Seasons  
19 product and the Bunker Hill product?

20                  A. I do have some level of recollection  
21 on that response, but I would say that's  
22 probably subjective.

23                  Q. Do you have -- whether there was a  
24 response or not is not subjective and that's  
25 the question. Are you aware that there was a

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2 response?

3 MR. THOMPSON: I will object to the  
4 form of the question only because that was  
5 not the question you had asked originally.  
6 Your original question characterized the  
7 correspondence and that's the way  
8 Ms. Troyer read it. Now, if you want to  
9 ask her the question now if she was just  
10 aware of the fact that there was  
11 correspondence, that's a different question  
12 and not the same question, sir.

13 Q. Are you aware of the fact that there  
14 was correspondence to Mr. Thompson from counsel  
15 for Four Seasons disputing the claim?

16 A. Denying similarity, yes.

17 Q. And are you aware that no further  
18 action was then taken by Mr. Thompson to  
19 respond to counsel for Four Seasons?

20 A. Okay.

21 Q. You are aware of that; yes or no?

22 A. Yes.

23 MR. FRIEDMAN: I am going to ask  
24 that this letter be marked as Petitioner's  
25 202.

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2                   (Petitioner Exhibit 202, letter  
3                   dated January 24, 2006, marked for  
4                   identification.)

5           Q.       Now, you are --

6           A.       Am I allowed to read this before we  
7           resume?

8           Q.       Yes. You are looking at what's been  
9           marked as Petitioner's Exhibit 202. Please  
10          take a moment to look at it, review it, and I  
11          ask you have you seen this document before?

12                   (Document review.)

13          Q.       As you are reading it, I would just  
14          like you to keep in mind that the question is  
15          whether you have seen it before. I am not  
16          asking you for an interpretation of the letter.

17          A.       I understand. I don't remember if I  
18          saw this. I know the issues had been  
19          discussed, but can I say without a doubt that I  
20          have physically seen this letter, I don't  
21          remember.

22          Q.       Thank you. Now, I am asking you to  
23          look at the photograph that your sister took  
24          that is on Registrant's 104, the horse and  
25          buggy.

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2           A.     Yes.

3           Q.     Is there anything distinctive about  
4 the horse and buggy depicted in this  
5 photograph?

6           MR. THOMPSON: First, I will object  
7 to the extent you are asking her for a  
8 legal conclusion as to what constitutes  
9 distinctiveness. That is a term of art in  
10 the field and whether or not this witness  
11 is particularly qualified to testify as to  
12 that legal term I'm not sure we have  
13 established, but if you want to ask her her  
14 lay opinion, okay, just so long as we are  
15 clear on that.

16          Q.     I am asking with respect to your lay  
17 opinion.

18          A.     Okay. Well, my lay opinion I would  
19 say yes, there are distinctives and I reference  
20 the documentary that my sister and I executive  
21 produced that was broadcast across the country  
22 for PBS called The Amish Between Two Worlds.  
23 There are several different sects of Amish  
24 across the United States. This particular  
25 buggy is representative of the Amish that dwell

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2       in northeastern and north central Ohio and, as  
3       mentioned, this photograph was taken at the  
4       Mount Hope Sale in Mount Hope, Ohio. Anyone  
5       that has any degree of literate knowledge of  
6       the different settlements of Amish across the  
7       country would be able to say that that  
8       distinctively is a buggy that would be found in  
9       the state of Ohio.

10            Q.     Is it your testimony that this buggy  
11       would be found only in the state of Ohio?

12            A.     Well, would it be only found in the  
13       state of Ohio? I can't say that conclusively,  
14       however, the majority of those members of the  
15       old order Amish community specifically that  
16       from appearance would be around the Holmes,  
17       southern Wayne County and maybe western Stark  
18       County area and also Tuscarawas County in Ohio,  
19       that is a design that the hierarchy of the  
20       church in that area approves of  
21       appearance-wise.

22            Q.     I notice that on the design of 104  
23       toward the back of the buggy there is sort of a  
24       rear window. Do you see that?

25            A.     Yes.

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2           Q.     Is that one of the things that makes  
3 this buggy distinctive?

4           A.     That -- I don't know that that would  
5 be a distinctive trait from the design there.  
6 I believe this is what would be classified as  
7 an Amish station wagon, and I don't mean to be  
8 comical, but that would be like a comment, so  
9 that the children sitting in the second seat  
10 would be able to have an outside view.

11          Q.     Do the children sitting in the  
12 second seat at Four Seasons' buggy have a view?

13                   MR. THOMPSON:  And you are referring  
14 to Exhibit 105.

15          A.     That buggy --

16                   MR. FRIEDMAN:  I'm sorry, 110.

17                   MR. THOMPSON:  110.  Sorry.

18          A.     The size of that buggy would --

19          Q.     Are you referring to 110?

20          A.     Yes.  The size of that buggy, in my  
21 opinion, would be similar to -- or the design,  
22 one perhaps maybe found in Lancaster County,  
23 Pennsylvania.  Would there be a window on the  
24 side?  Perhaps if the design was a bit larger.

25          Q.     You would agree that there is no

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2 window in the Four Seasons buggy?

3 A. That's correct, but -- I don't  
4 see --

5 Q. And I notice that the window in the  
6 Heini's buggy has a little -- what would you  
7 call that, a lid on top of that window?

8 A. It would be like a roll tarp.

9 Q. Is there a roll tarp on the Four  
10 Seasons buggy?

11 A. No.

12 Q. I see that also on the Heini's buggy  
13 there is a little window toward the front on  
14 the side. Do you see what I am referring to?

15 A. Yes.

16 Q. Do you see such a window on the Four  
17 Seasons buggy?

18 A. No.

19 Q. May I see this again. I will note  
20 that these exhibits that the witness and I are  
21 looking at are color exhibits and I note that  
22 the Four Seasons buggy -- I'm a little bit  
23 color blind, but that looks a bit bluish to me,  
24 blue gray, the buggy?

25 A. Yes.

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2           Q.     Is the Heini's buggy the same color?

3           A.     No.

4           Q.     It appears to me that the rear wheel  
5 in the Heini's buggy is larger than the front  
6 wheel.  Would you agree with that?

7           A.     Yes, as is the Four Seasons buggy.

8           Q.     That rear wheel looks bigger to you?

9           A.     Yes, it does.

10          Q.     It doesn't to me.

11                   MR. THOMPSON:  But you are not the  
12 witness.

13                   MR. FRIEDMAN:  That's true.

14          Q.     And I notice that as we are sitting  
15 here the horse and buggy on the Four Seasons  
16 packaging is pointing toward the right, that  
17 is, the horse is pointing toward the right.

18                   Is it the same orientation for the  
19 Heini's horse and buggy?

20          A.     No.  However, I did not see the  
21 original photograph of the Four Seasons one,  
22 so, in essence, the picture could have been  
23 reversed to appear that it was not pointing in  
24 the same direction originally.

25          Q.     But comparing the package that is in

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2 front of you as represented by Exhibits 104 and  
3 110, the horses and buggies are pointing in  
4 different directions?

5 A. Correct.

6 Q. Is it fair to say that the  
7 backgrounds in the pictures behind the horse  
8 and buggies are completely dissimilar?

9 A. No.

10 Q. Well, in the Heini's -- behind the  
11 Heini's horse and buggy I see what I think one  
12 could say is -- what is that, a farmhouse or  
13 some sort of house?

14 A. The similarities I see are two Amish  
15 horse and buggies tied to a hitching post,  
16 trees in the background, actual photographs as  
17 opposed to one being an illustration and the  
18 other a photograph. I see similarities in  
19 those characteristics.

20 Q. Well, in the Four Seasons horse and  
21 buggy, in the background we see a street and a  
22 street sign; correct?

23 A. Correct.

24 Q. In the Heini's horse and buggy we  
25 see a pastoral setting where the background is

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2           dominated by a farmhouse; correct?

3                   MR. THOMPSON:  Objection to the  
4                   characterization as "dominated."  That's  
5                   also a subjective feature.

6           A.       I see both photographs dominated by  
7           an Amish buggy pulled by a horse tied to a  
8           hitching post.

9                   MR. FRIEDMAN:  But the question was  
10                  with respect to the background and I would  
11                  just point out that the witness' answer was  
12                  non-responsive.

13          A.       Acknowledged.

14          Q.       Now, with respect to Salzberg  
15          cheese, are you ever aware of a cheese product  
16          with the name Salzberg on it other than  
17          Heini's -- I'm sorry, Bunker Hill's Salzberg  
18          cheese manufactured for Gold Star?

19                  MR. THOMPSON:  Could I just have  
20                  that read back or do you want to start it  
21                  over?

22                  MR. FRIEDMAN:  Let's go off the  
23                  record for a second.  Can I take a  
24                  two-minute break.

25                  MR. THOMPSON:  Sure.

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2                   (Recess was taken from 12:59 to  
3                   1:08.)

4                   MR. FRIEDMAN:    Could you read back  
5                   the last question.

6                   (Record read.)

7                   MR. FRIEDMAN:    Is there a problem  
8                   with the question?

9                   MR. THOMPSON:    Because it was an Old  
10                  Salzberg rather than just Salzberg.  This  
11                  is the New Salzberg.

12                  MR. FRIEDMAN:    I am asking with  
13                  respect to Salzberg.

14                  MR. THOMPSON:    Okay.

15                  A.        Am I aware of a product?

16                  Q.        Of any Salzberg brand cheeses other  
17                  than Gold Star's product and the Four Seasons  
18                  product?

19                  A.        Yes.

20                  Q.        Could you tell me what you know  
21                  about the other cheese products with the name  
22                  Salzberg?

23                  A.        A non-domestic product.

24                  Q.        From?

25                  A.        Europe.

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2           Q.     Does Salzberg represent a  
3 geographical location?

4           A.     Austria, I assume.

5           Q.     Isn't it a fact that Salzberg,  
6 Austria is known for its cheese, Salzberg  
7 cheese?

8           A.     Sure.

9           Q.     So you would agree that the term  
10 "Salzberg" for cheese is a common term?

11           MR. THOMPSON: Object to asking her  
12 to characterize it.

13           A.     Repeat that question.

14           Q.     I will rephrase the question.  
15 Did Gold Star originate the name  
16 Salzberg for cheese?

17           A.     No.

18           Q.     Did Bunker Hill originate the name  
19 Salzberg for cheese?

20           A.     No.

21           Q.     Did Heini's originate the name  
22 Salzberg for cheese?

23           A.     No.

24           Q.     Salzberg for cheese has been used  
25 for hundreds of years; correct?

1                   Troyer - Confidential

2           A.     I don't know.

3           Q.     Is it fair to say that Salzberg for  
4 cheese has been used for decades?

5           A.     I don't know.

6           Q.     Are you aware of any other cheeses  
7 with the name Salzberg apart from the cheese  
8 coming from Salzberg, Austria?

9           A.     Am I aware?

10          Q.     Yes.

11          A.     The Old Salzberg we make for Gold  
12 Star and now the New Salzberg manufactured by  
13 Minerva Dairy for Four Seasons which came onto  
14 the market after the Old Salzberg domestic  
15 product.

16          Q.     Do you have any examples of the  
17 Salzberg -- what is it -- the Old Salzberg  
18 cheese manufactured by Bunker Hill, do you have  
19 anything with you?

20          A.     No.

21                   MR. THOMPSON:  Could you mark this  
22 as Petitioner's 203.

23                           (Petitioner Exhibit 203, copy of Old  
24 Salzberg Semisoft Cheese label, marked for  
25 identification.)

1                   Troyer - Confidential

2           Q.       Petitioner's 203 is a black and  
3 white photocopy. Please review it and can you  
4 identify what is depicted in there?

5           A.       What is depicted --

6           Q.       In the photocopy.

7           A.       A picture of a European-esque type  
8 photograph and ingredients, nutritional facts  
9 and basic information about the product within  
10 the package.

11          Q.       Is Bunker Hill involved in the  
12 process of affixing the labels to the Old  
13 Salzberg cheese that it manufactures for Gold  
14 Star?

15          A.       Yes.

16          Q.       Is this the label that Bunker Hill  
17 affixes?

18          A.       I believe it is.

19          Q.       Are you aware of any other labels  
20 that Bunker Hill affixes onto cheese  
21 manufactured for Gold Star under the name  
22 Old Salzberg?

23          A.       No.

24          Q.       And is this then the labeling that  
25 you claim is infringed by the Four Seasons

1                   Troyer - Confidential

2       labeling depicted on 111?

3           A.       Yes.

4           Q.       And are there any similarities  
5       between these two labels other than the name  
6       Salzberg?

7           A.       The photograph depicts what can be  
8       perceived to be a European scenic photograph.

9           Q.       Referring to which one?

10          A.       It's hard to -- it's hard to compare  
11       a black and white photograph and a color  
12       photograph. There are marked differences but  
13       similarities as well.

14           MR. THOMPSON: I won't bother you  
15       with going through all of the differences  
16       and similarities, but I will ask you to  
17       have a look at another product.

18           Could we have this marked as  
19       Petitioner's 204.

20           (Petitioner Exhibit 204, Salzberg  
21       Cheese From Austria label, marked for  
22       identification.)

23          Q.       So P 204 is, again, a black and  
24       white photocopy, and do you recognize the  
25       product that is depicted in this photocopy?

1                   Troyer - Confidential

2           A.     I do not recall seeing this specific  
3 label, but I may well have.

4           Q.     When you mentioned earlier that  
5 there is a -- that you were familiar with a  
6 cheese with the name Salzberg that comes from  
7 Austria --

8           A.     Uh-huh.

9           Q.     -- is this the product that you were  
10 thinking of?

11          A.     I knew there was a product produced  
12 out of this country called Salzberg cheese.

13          Q.     So then that product might have  
14 been -- this particular product that we see in  
15 P 204 might have been some other product;  
16 correct?

17          A.     I'm assuming that this is the  
18 product that you were referring to.

19          Q.     Do you think that Bunker Hill's Old  
20 Salzberg cheese is an infringement of the label  
21 that we see here in P 204?

22                 MR. THOMPSON: I will object to that  
23 question as calling for a legal conclusion  
24 and I don't know that we have established  
25 all sorts of facts which would be a

1                   Troyer - Confidential

2                   predicate for it.

3           Q.       Your lay opinion.

4           A.       The labeling is significantly  
5 different.

6           Q.       The name Salzberg is the same?

7           A.       As is the word "cheese."

8                   MR. FRIEDMAN: I have no further  
9 questions at this time.

10                   MR. THOMPSON: Okay. Let me have a  
11 minute or two.

12                               (Recess was taken from 1:20 to  
13 1:24.)

14                   MR. THOMPSON: Concluding the  
15 record, I have no further questions and I  
16 thank Miss Troyer.

17  
18  
19                               -----  
20                               LISA ANNE TROYER

21  
22                   Subscribed and sworn to before me  
23 this               day of                               2008.

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25                   -----

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C E R T I F I C A T E

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

I, KRISTIN KOCH, a Notary Public within  
and for the State of New York, do hereby  
certify:

That LISA ANNE TROYER, the witness  
whose deposition is hereinbefore set forth,  
was duly sworn by me and that such  
deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I am  
in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 21st day of October, 2008.

-----

KRISTIN KOCH, RPR, RMR, CRR, CLR

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

WITNESS	EXAMINATION BY	PAGE
LISA ANNE TROYER	MR. THOMPSON	5
	MR. FRIEDMAN	47

-----EXHIBITS-----

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Exhibit 102		
Photocopy of label, Babushka's Recipe Havarti Yogurt Cheese, Bates stamped GOLD 0001.....	20	15
Exhibit 103		
Color copy of label Babushka's Recipe Havarti Yogurt Cheese, Bates stamped GOLD 0209.....	26	17
Exhibit 104		
Heini's All Natural Yogurt Cultured Semisoft Part-Skim Cheese, Original Flavor, plastic wrapper, Bates GOLD 0286.....	26	22
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Amish Gourmet Yogurt Cheese, Semisoft Part-Skim Cheese label, Bates stamped GOLD 0289.....	27	2
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Amish Valley Colby Cheese label, Bates stamped GOLD 0288.....	35	5
Exhibit 107		
Curwood invoice dated May 30, 2003...		

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-----EXHIBITS-----

REGISTRANT	PAGE	LINE
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Exhibit 110 Amish Gourmet Yogurt Cheese, Semisoft Part-Skim Cheese.....	41	16
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-----EXHIBITS-----

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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Four Seasons v. Gold Star

Dep. Date: October 14, 2008

Deponent: Lisa Anne Troyer

CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reason
_____	_____	_____	_____	_____
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\_\_\_\_\_  
Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_

(Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

Original Yogurt Cheese

Semi Soft  
NATURAL  
YOGURT CHEESE  
ORIGINAL  
BUNKER HILL  
CHEESE COMPANY, INC.  
MILLERSBURG, OHIO 44654



**HEIN'S**  
Semi Soft  
NATURAL  
YOGURT CHEESE  
ORIGINAL

MFG. BY BUNKER HILL  
CHEESE COMPANY, INC.  
MILLERSBURG, OHIO 44654



HE

Semi Soft

NATURAL  
YOGURT  
CHEESE  
ORIGINAL

MFG. BY  
CHEESE  
MILLERS



Four Seasons Dairy  
Inc., petthor  
v  
International Gold  
Star Trading Corp  
registrar

cancellation no.  
421042082  
petthor exhibit  
201 101408

Semi Soft Part-Skim Acidophilus and Bifidus Fortified

**HEIN'S ORIGINAL YOGURT CHEESE**



A FOUNTAIN OF FLAVOR

**AMISH COUNTRY'S FINEST ALL NATURAL CHEESE**

**ORIGINAL**

Ingredients: Pasteurized Part Skim Milk, Yogurt Cultures, Acidophilus, Bifidus, Microbial Enzymes, Salt.

BUNKER HILL CHEESE CO., INC.  
5005 CR 77 MILLERSBURG OH 44654

Original Yogurt Cheese

Semi Soft Part-Skim Acidophilus and Bifidus Fortified

**HEIN'S ORIGINAL YOGURT CHEESE**



YOGURT  
ORIGINAL  
MFG. BY BUNKER HILL  
CHEESE COMPANY, INC.  
MILLERSBURG, OH



**HEIN'S**  
Semi Soft

NATURAL  
YOGURT CHEESE  
ORIGINAL

MFG. BY BUNKER HILL  
CHEESE COMPANY, INC.  
MILLERSBURG, OHIO 44654



**HEIN'S**  
Semi Soft

NATURAL  
YOGURT CHEESE  
ORIGINAL

MFG. BY BUNKER HILL  
CHEESE COMPANY, INC.  
MILLERSBURG, OHIO 44654



**HEIN'S**  
Semi Soft

**SAMUEL FRIEDMAN**

ATTORNEY AT LAW

225 BROADWAY - SUITE 1804  
NEW YORK, N.Y. 10007  
TELEPHONE (212) 267-2900  
FAX (212) 587-0570

January 24, 2006

Via Fax & Mail: (212) 972-5487 (3 pages total)

Roger Thompson, Esq.  
Cohen Pontani Lieberman & Pavane  
551 Fifth Avenue  
New York, New York 10176

Re: Four Seasons Dairy, Inc.  
Amish Gourmet Yogurt Cheese  
Your Ref # 5060-32L

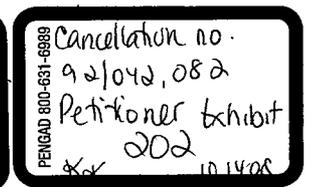
Dear Mr. Thompson:

I represent Four Seasons Dairy Inc. ("Four Seasons"). I have your letter dated December 28, 2005, regarding U.S. Trademark Reg. No. 2,107,774 ("Reg 774") and alleged infringement by Four Seasons.

Four Seasons' Amish Gourmet Yogurt Cheese is not, as you claim, an inferior cheese. Rather, it is highly regarded for its fine taste and quality.

Although you state that you represent both International Goldstar Trading Corp. ("Gold Star") and Bunker Hill Cheese Company, Inc. ("Bunker Hill") you have not provided samples of the packaging in which your clients' allegedly competing goods are sold. Accordingly, we request that you provide such samples for both Gold Star and Bunker Hill so that Four Seasons can better evaluate your request. Samples of your clients' products derived from the marketplace show packaging with drawings entirely different from the drawing depicted in Reg. 774.

A comparison of Four Seasons' packaging to the drawing depicted in Reg. No. 774, reveals far more differences than similarities. For example: Bunker Hill's black and white drawing of a rural landscape as depicted in Reg 774, displays (a) a sun, rising or setting (partially exposed and partially



Roger Thompson, Esq.  
January 24, 2006  
Page 2

obstructed), (b) farms, (c) a horse-drawn two-wheel carriage, in motion, with an open side view and the silhouette of a driver, (d) all set forth in an oval shape

Four Seasons' packaging, on the other hand, displays a color photograph, not a black and white drawing, and, unlike the drawing depicted in Reg 774, Four Seasons' close-up photograph (a) does not display any sun or hint of sunrise or sunset, (b) does not display farms or a rural setting, rather it displays houses, a street traffic sign and a paved street in the background, (c) displays a horse-drawn four-wheel carriage, at rest, with the horse's reins tied to wooden post, and a different style carriage with an enclosed driver's area but no driver depicted; and (d) is rectangular rather than oval in shape.

We note that the mere display of a horse-drawn carriage on the packaging of Four Seasons' Amish Gourmet Yogurt Cheese does not create any reasonable possibility of consumer confusion. Likewise, the mere display of a horse drawn carriage on packaging for cheese does not serve to identify a single source.

Because of the common use of horse drawn carriages on packaging for dairy products - it would appear that the drawing depicted in Reg 774 is a weak mark, entitled only to a narrow scope of protection. Moreover, the fact that there are literally dozens of trademarked designs of horse drawn carriages for food stuffs indicates that there is no reasonable possibility of consumer confusion between your clients' products and the high quality Amish Gourmet Yogurt Cheese distributed by Four Seasons.

Moreover, the trademark registration covers all of the interrelated elements a single unified design and as demonstrated above, the design elements of Reg No. 774 are quite different from the color photograph displayed on the Four Seasons packaging. Accordingly, we think that there is no reasonable possibility of consumer confusion.

The discussion and analysis set forth above should be sufficient for your clients to choose not to further pursue this matter. However, if your clients do wish to further pursue this

Roger Thompson, Esq.

January 24, 2006

Page 3

matter, I would request that you respond with such factual information, as requested above, and any legal authorities that support your position.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Friedman', with a long horizontal flourish extending to the right.

Samuel Friedman

SF: aj

cc: Four Seasons Dairy, Inc.

TM/4 seasons/Amish Gourmet/Thompson-Fax

# Old Salzburg



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

## semi soft cheese

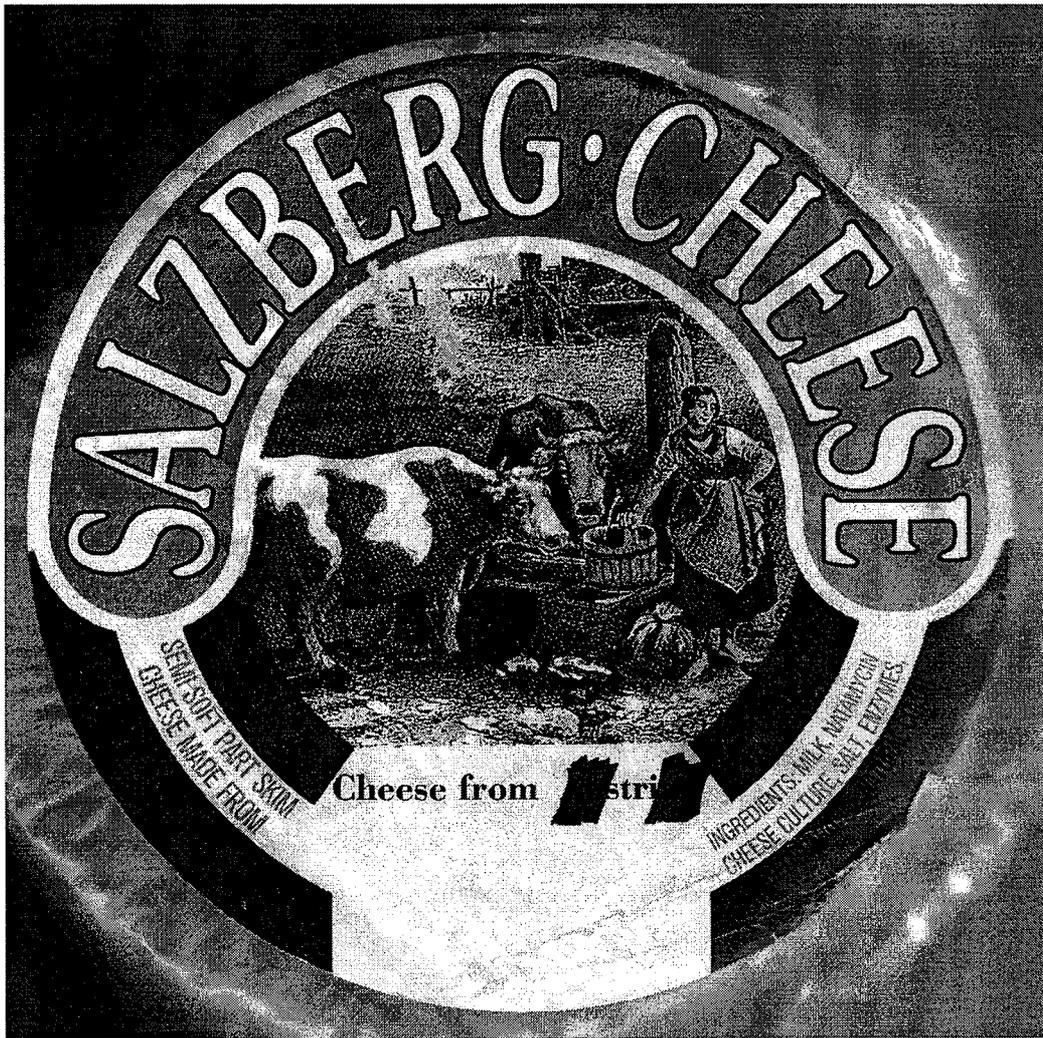
Nutrition Facts		Amount/Serving	%DV*	Amount/Serving	%DV*
Serv. Size	1 oz.	Total Fat	9g 14%	Total Carb.	0g 0%
Servings	Varies	Sat. Fat	6g 30%	Dietary Fiber	0g 0%
Calories	110	Trans Fat	0g	Sugars	0g
Fat Cal.	80	Cholest	25mg 8%	Protein	7g
*Percent Daily Values (DV) are based on a 2,000 calorie diet.		Sodium	190mg 6%		
		Vitamin A 6% • Vitamin C 0% • Calcium 20% • Iron 2%			

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

Keep Refrigerated. To be weighed at time of sale.

PENGAD 800-631-6989  
Four Seasons Dairy  
Inc., petitioner  
International Gold  
Star Trading Corp  
Respondent

PENGAD 800-631-6989  
Cancellation no.  
921042, 082  
Petitioner Exhibit  
003  
9/28/08 10/14/08



**SALZBERG CHEESE**  
**WALKER FOODS JERSEY CITY**  
 PO 81397  
**PRODUCT OF AUSTRIA**

NET WEIGHT: 2.18LB  
 0.99kg

OSTERREICH  
**M-O-20**  
 EG 8325

Nutrition Facts	
Serving Size 1 oz (28g/about 1 inch cube)	
Servings Per Container about 35	
Amount Per Serving	
Calories 86	Calories from Fat 59
% Daily Value*	
Total Fat 6g	9%
Saturated Fat 4g	20%
Cholesterol 19mg	6%
Sodium 252mg	11%
Total Carbohydrate 0g	0%
Dietary Fiber 0g	0%
Sugars 0g	
Protein 7g	
Vitamin A 6%	Vitamin C 0%
Calcium 21%	Iron 0%

\* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.

Four Seasons Dairy  
 Inc., petthorner  
 International Gold  
 Star Trading Corp  
 Registrar

Cancellation no.  
 921042, 082  
 Petthorner exhibit  
 204  
 10/14/08



You are invited to attend and cross-examine.

Respectfully submitted,  
COHEN, PONTANI, LIEBERMAN & PAVANE

By

  
Roger S. Thompson  
551 Fifth Avenue  
New York, New York 10176  
(212) 687-2770

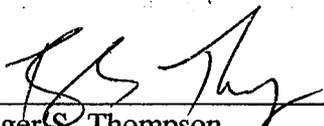
*Attorneys for Registrant,*  
International Gold Star Trading Corp.

Dated: October 10, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Notice of Deposition was served by first-class mail, postage pre-paid, and by e-mail on counsel for petitioner, addressed as follows:

Samuel Friedman, Esq.  
[samfriedman@verizon.net](mailto:samfriedman@verizon.net)  
225 Broadway, Suite 1804  
New York, New York 10007

  
\_\_\_\_\_  
Roger S. Thompson  
*Counsel for Registrant*

October 10, 2008  
Date



Ingredients: Pasteurized Part Skim Milk, Yogurt Cultures, Acidophilus, Bifidus, Enzymes, Salt.

**БАБУШКИН РЕЦЕПТ**  
TO BE WEIGHED AT TIME OF SALE

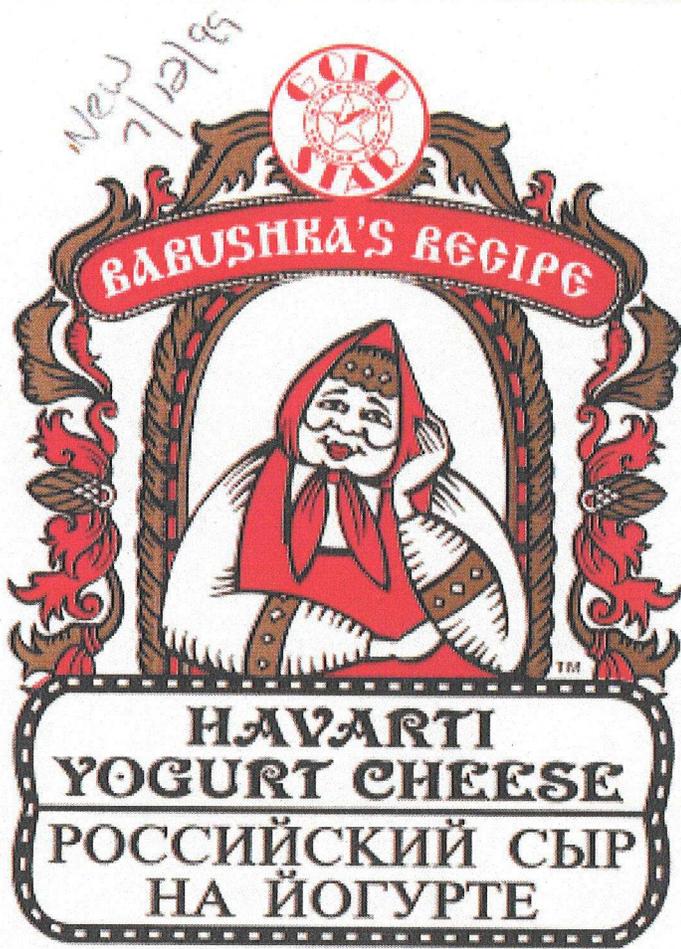
**Premium All Natural**

International Gold Star Trading Corp.  
570 Smith Street, Brooklyn, New York 11231  
(718) 522-1545

PENGAD 800-631-6989  
Four Seasons Dairy  
Inc. petitioner  
v.  
International Gold  
Star Trading Corp.  
Respondent

PENGAD 800-631-6989  
cancellation no.  
921042,082  
Registrant exhibit  
102  
dk 101408

GOLD0001



Ingredients: Pasteurized Part Skim Milk, Yogurt Cultures, Acidophilus, Bifidus, Enzymes, Salt.



**Premium All Natural**

International Gold Star Trading Corp.  
570 Smith Street, Brooklyn, New York 11231  
(718) 522-1545

PENGAD 800-631-6989  
Four Seasons Dairy  
Inc, petitioner  
International Gold  
Star Trading Corp  
registrant

PENGAD 800-631-6989  
Cancellation no:  
92104,082  
registrant exhibit  
103  
K&K 10-14-08

GOLD0209

**HEINI'S**  
ALL NATURAL  
Yogurt Cultured  
Semisoft  
Part-Skim Cheese  
ORIGINAL FLAVOR



MFG By: Bunker Hill Cheese Co., Inc.  
Millersburg, Ohio 44654

**HEINI'S**  
ALL NATURAL  
Yogurt Cultured  
Semisoft  
Part-Skim Cheese  
ORIGINAL FLAVOR



MFG By: Bunker Hill Cheese Co., Inc.  
Millersburg, Ohio 44654

**HEINI'S**  
ALL NATURAL  
Yogurt Cultured  
Semisoft  
Part-Skim Cheese  
ORIGINAL FLAVOR



MFG By: Bunker Hill Cheese Co., Inc.  
Millersburg, Ohio 44654

**HEINI'S**  
ALL NATURAL  
Yogurt Cultured  
Semisoft  
Part-Skim Cheese  
ORIGINAL FLAVOR

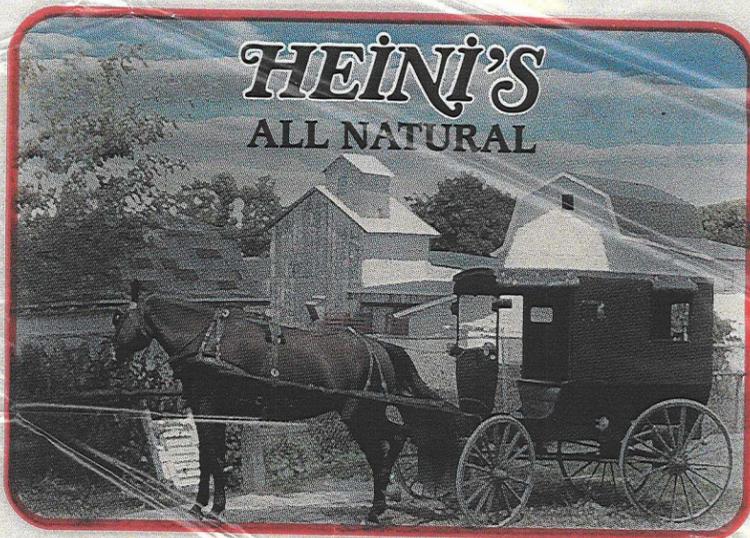


MFG By: Bunker Hill Cheese Co., Inc.  
Millersburg, Ohio 44654

**HEINI'S**  
ALL NATURAL  
Yogurt Cultured  
Semisoft  
Part-Skim Cheese  
ORIGINAL FLAVOR



MFG By: Bunker Hill Cheese Co., Inc.  
Millersburg, Ohio 44654



**HEINI'S**  
ALL NATURAL

**Yogurt Cultured**  
Semisoft Part-Skim Cheese  
ORIGINAL FLAVOR

rBST / rBGH  
Artificial Growth  
Hormone Free

Made With 100%  
Amish Milk

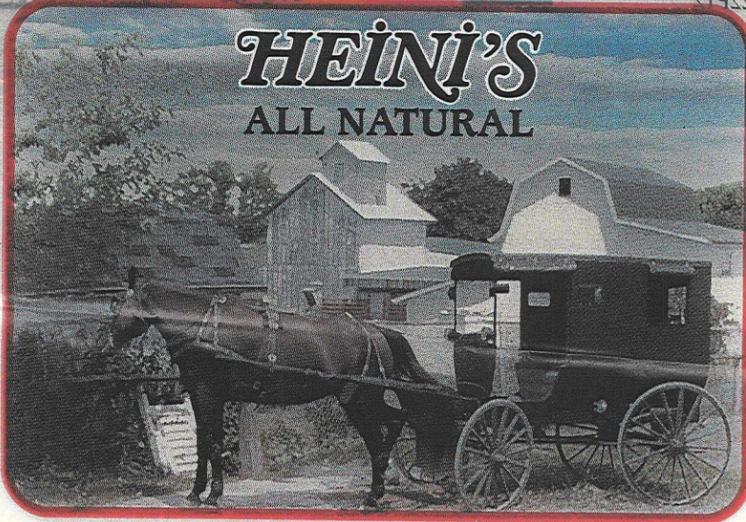
Contains Live Active  
Yogurt Cultures

Low Sodium  
See Nutritional Panel For Sodium Content

Ingredients: Pasteurized Part Skim Milk, Salt, Enzymes, Yogurt (skim milk,  
non-fat dry milk and cultures), Yogurt Cultures, Acidophilus, Bifidus, Casei.

Manufactured By: Bunker Hill Cheese Co., Inc.  
6005 CR 77 • Millersburg, Ohio 44654 • 330-893-2131

KEEP REFRIGERATED



**HEINI'S**  
ALL NATURAL

**Yogurt Cultured**  
Semisoft Part-Skim Cheese  
ORIGINAL FLAVOR

rBST / rBGH  
Artificial Growth  
Hormone Free

Made With 100%  
Amish Milk

Contains Live Active  
Yogurt Cultures

Low Sodium  
See Nutritional Panel For Sodium Content

Ingredients: Pasteurized Part Skim Milk, Salt, Enzymes, Yogurt (skim milk,  
non-fat dry milk and cultures), Yogurt Cultures, Acidophilus, Bifidus, Casei.

Manufactured By: Bunker Hill Cheese Co., Inc.  
6005 CR 77 • Millersburg, Ohio 44654 • 330-893-2131

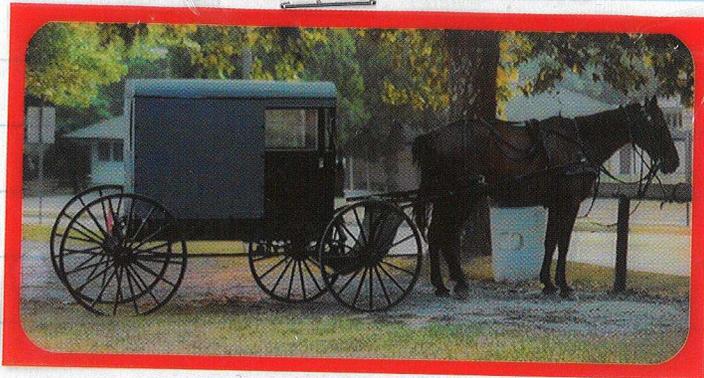
KEEP REFRIGERATED

Four Seasons Dairy  
Inc. gethoner  
International Gold  
Star Trading Corp  
REGISTRANT

Cancellation no.  
921042082  
Registrant Exhibit  
104  
dk 10-14-08

# AMISH GOURMET

Made from Amish Milk



## YOGURT CHEESE Semisoft Part-Skim Cheese

**Ingredients:** Pasteurized Part Skim Milk, Salt,  
Enzymes, Yogurt cultures  
(L-Bulgaricus, S.Thermophilus, Acidophilus)

**Yogurt Cultured**  
Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

**Yogurt Cultured**

Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

**Yogurt Cultured**

Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

### Nutrition Facts

Serving Size 1 oz (28 grams)

Calories 80

Calories from Fat 50

Amount Per Serving % Daily Value\*

Total Fat 6g 9%

Saturated Fat 3.5g 18%

Cholesterol 15mg 6%

Sodium 125mg 5%

Protein 8g

Vitamin A 6% Vitamin C 0%

Calcium 25% Iron 2%

Plant # 39-152



**KEEP REFRIGERATED**

35°F - 40°F

MANUFACTURED EXCLUSIVELY FOR:

**FOUR SEASONS DAIRY INC.**

BROOKLYN, NY 11204, 718-567-7877

**Yogurt Cultured**

Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

**Yogurt Cultured**

Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

**Yogurt Cultured**

Semisoft

Part-Skim Cheese

ANOTHER PRODUCT

OF OUR

"COUNTRYWISE"

LINE,

CHOICE FOR

HEALTHY EATING

**LOWER SALT**

Four Seasons Dairy  
Inc., petitioner  
International Gold  
Star Trading Corp  
Registrar

PENAD 800-631-6989

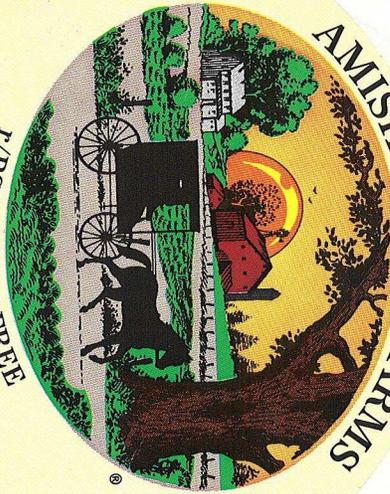
Cancellation no.  
901042,082  
Registrar exhibit  
105  
dkk 10 1408

PENAD 800-631-6989

PENGAD 800-631-6889  
Four Seasons Dairy  
Inc, petitioner  
International Gold  
Star Trading Corp  
Registrant

PENGAD 800-631-6889  
Cancellation no.  
921042,082  
Registrant exhibit  
106  
Kdk 101408

**COLBY CHEESE**  
100% AMISH MILK  
r/BST r/BGH FREE  
ALL NATURAL  
DISTR. BY: BUNKER HILL CHEESE CO., INC., MILLERSBURG, OH 44654  
INGREDIENTS: PASTEURIZED MILK, CHEESE CULTURE,  
ENZYMES, ANNATTO (IF COLORED), SALT.



**COLBY CHEESE**  
100% AMISH MILK  
r/BST r/BGH FREE  
ALL NATURAL  
DISTR. BY: BUNKER HILL CHEESE CO., INC., MILLERSBURG, OH 44654  
INGREDIENTS: PASTEURIZED MILK, CHEESE CULTURE,  
ENZYMES, ANNATTO (IF COLORED), SALT.





MAIL CORRESPONDENCE TO:  
 CURWOOD, INC.  
 718 HIGH STREET  
 NEW LONDON, WI 54961  
 920-982-8000

PLEASE REMIT TO:	
CHECK CURWOOD, INC. P.O. BOX 75100 CHARLOTTE, NC 28275 USA	WIRE TRANSFER REDACTED REFER TO: REDACTED REDACTED ABA REDACTED ACCT. REDACTED

ORIGINAL INVOICE  
 NO. 80433270  
 DATE: May 30, 2003  
 PAGE: 1 OF 1

<b>BILL TO:</b> BUNKER HILL CHEESE ATTN: Accounts Payable 6005 COUNTY ROAD 77 MILLERSBURG OH 44654 USA	<b>SHIP TO:</b> BUNKER HILL CHEESE 6005 COUNTY ROAD 77 MILLERSBURG OH 44654 USA	<b>DISCOUNT ALLOWED:</b> Cash discount of 99.07- will be allowed if payment is received on or before Jun 09, 2003
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<b>TERMS OF PAYMENT</b> 1% DISC 10 DAYS, NET 30 DAYS	<b>TERMS OF SALE</b> Prepaid	<b>CARRIER</b> USF HOLLAND	<b>DELIVERY</b> 2275656
<b>ACCT.NO.</b> 2705	<b>SHIPPING LOCATION</b> Centerville Truck	<b>SHIP DATE</b> May 30, 2003	<b>GROSS WEIGHT</b> 1,280.270 LBS <b>NET WEIGHT</b> 1,167.305 LBS

INVOICE INSTRUCTIONS:

CUSTOMER P.O.	ORDER #	ORDER QTY	LIST PRICE	U	DESCRIPTION	AMOUNT
CUST P.O. ITEM #	DATE RCVD	SHIP QTY	NET PRICE	O		
CUSTOMER ITEM	TOOL #			M		
VERBAL - BOB	273034-010	19,675.000	263.10	PC	CLEAR-TITE® 12 FILM 9 X 20 ARC SLD	5,176.49
	Apr 25, 2003	19,675.000	263.10			
HEINI'S GARDEN VEG	00000930005608				HEINI'S ORG ALL NAT YOG CLTRD SS	
VERBAL - BOB	273034-020	17,980.000	263.10	PC	CLEAR-TITE® 12 FILM 9 X 20 ARC SLD	4,730.54
	Apr 25, 2003	17,980.000	263.10			
HEINI'S ORIG	00000930005609				HEINI'S G V ALL NAT YOG CLTRD SS	
<b>TOTAL</b>						<b>9,907.03</b>

#68851  
7-7-03

UNIT OF MEASURE CAR=Carton FT=1,000 Ft KG=Kilogram LBS=Pounds M=1,000 Meters PAL=Pallet PC=1,000 Pcs ROL=Roll

Four Seasons Dairy  
 Inc. petitioner  
 v  
 International  
 Star Trading Corp  
 Registrant

cancellation no.  
 901042,082  
 Registrant exhibit  
 107  
 KK 10:14:08



★★★ USA LABEL  
EXPRESS, INC.

P.O. Box 518 Bolivar, OH 44612  
330-874-1001 1-800-445-2069 Fax 330-874-2558

INVOICE

DATE	INVOICE #
6/10/2003	7176

**BILL TO:**  
Bunker Hill Cheese, 000951  
6005 County Road 77  
Millersburg, OH 44654

**SHIP TO:**

Four Seasons Dairy  
Inc. 1 pch honer  
Y  
International Gold  
Star Trading Corp  
registrant  
PENGAD 800-631-6989

Cancellation no.  
921042,082  
Registrant exhibit  
108  
dkk 10/14/08  
PENGAD 800-631-6989

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
MARK	3%10 NET 15		6/10/2003	CCX		
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
	COMMENT					
16	Thousand	2 1/8 X 4 3/4 HALF MOON DIE, WHITE SEMI GLOSS, 4 COLOR PROCESS + BLACK + 1 COLOR + UV, 3' CORE, FOR HEINI'S			0.00	0.00
16	Thousand	16M 1M/RL, ORIGINAL, PMS 185			20.43	326.88
16	Thousand	16M 1M/RL, JALAPENO, PMS 021			20.43	326.88
16	Thousand	16M 1M/RL, GARDEN VEG, PMS 355			20.43	326.88
16	Thousand	16M 1M/RL, PEPPERCORN & CHIVE, PMS 342			20.43	326.88
16	Thousand	16M 1M/RL, GARLIC & HERB, PMS 154			20.43	326.88
16	Thousand	16M 1M/RL, SUNDRIED TOMATO/GARLIC, PMS 1807			20.43	326.88
16	Thousand	16M 1M/RL, SUNDRIED TOMATO/BASIL, PMS 363			20.43	326.88
14	PLATES	PLATE CHARGE			75.00	1,050.00
1	FREIGHT	FREIGHT			71.55	71.55
#68794 6-26-03					<b>TOTAL</b>	<b>\$3,409.71</b>

In case of shortage or overrun, exact quantity shipped as billed on a pro rate basis  
ORIGINAL

PLEASE REMIT TO:

**CHECK**  
 CURWOOD, INC.  
 P.O. BOX 75100  
 CHARLOTTE, NC  
 28275  
 USA

**WIRE TRANSFER**  
 REDACTED  
 REFER TO: REDACTED  
 REDACTED  
 ABA REDACTED  
 ACCT. REDACTED

ORIGINAL INVOICE

NO. 80433312  
 DATE: Jun 02, 2003  
 PAGE: 1 OF 1

**CURWOOD**  
 MAIL CORRESPONDENCE TO:  
 CURWOOD, INC.  
 718 HIGH STREET  
 NEW LONDON, WI 54961  
 920-982-8000

<b>BILL TO:</b> BUNKER HILL CHEESE ATTN: Accounts Payable 6005 COUNTY ROAD 77 MILLERSBURG OH 44654 USA	<b>SHIP TO:</b> BUNKER HILL CHEESE 6005 COUNTY ROAD 77 MILLERSBURG OH 44654 USA	<b>DISCOUNT ALLOWED:</b> Cash discount of 148.78- will be allowed if payment is received on or before Jun 12, 2003
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<b>TERMS OF PAYMENT</b> 1% DISC 10 DAYS, NET 30 DAYS	<b>TERMS OF SALE</b> Prepaid	<b>CARRIER</b> USF HOLLAND	<b>DELIVERY</b> 2275693
<b>ACCT. NO.</b> 2705	<b>SHIPPING LOCATION</b> Centerville Truck	<b>SHIP DATE</b> Jun 02, 2003	<b>GROSS WEIGHT</b> 1,997.264 LBS <b>NET WEIGHT</b> 1,857.920 LBS

INVOICE INSTRUCTIONS:

CUSTOMER P.O.	ORDER #	ORDER QTY	LIST PRICE	U	DESCRIPTION	AMOUNT
CUST P.O. ITEM #	DATE RCVD	SHIP QTY	NET PRICE	O		
CUSTOMER ITEM	TOOL #			M		
VERBAL - BOB	273081-010	20,000.000	320.32	PC	CLEAR-TITE® 12 FILM 10 X 24 ARC SLD HEINI'S ORG ALL NAT YOG CLTRD SS	8,318.71
10X24 HEINI'S ORIG	Apr 30, 2003	25,970.000	320.32			
	00000930005718					
VERBAL - BOB	273081-020	20,000.000	320.32	PC	CLEAR-TITE® 12 FILM 10 X 24 ARC SLD HEINI'S G V ALL NAT YOG CLTRD SS	6,559.51
10X24 HEINI'S GRD VE	Apr 30, 2003	20,478.000	320.32			
	00000930005719					

TOTAL

14,878.22

UNIT OF MEASURE CAR=Carton FT=1.000 Ft KG=Kilogram LBS=Pounds M=1.000 Meters PAL=Pallet PC=1.000 Pcs ROL=Roll

Four Seasons Dairy  
 Inc. petitioner  
 v  
 International Food  
 Star Trading Corp.  
 Registrant

Cancellation no.  
 921042082  
 Registrant exhibit  
 109  
 KK 10/14/08