

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001
FOUR SEASONS DAIRY, INC.,

TTAB

75865702

Petitioner,

Cancellation No.: 92042082

- against -

Mark: BABUSHKA'S RECIPE

INTERNATIONAL GOLD STAR
TRADING CORP.,

Reg. No. 2,479,287

Registrant

Filed: December 7, 1999

Issued: August 21, 2001

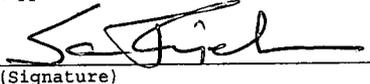
App. Ser. No. 76-174,746

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Trademark Trial and Appeal Board U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on the date shown below:

Samuel Friedman

(Typed Name of Person Signing Certificate)



(Signature)

March 31, 2007

(Date)

MOTION TO COMPEL DISCOVERY

COMES NOW, Petitioner, FOUR SEASONS DAIRY INC. (hereinafter "Petitioner"), by and through counsel and pursuant to Rule 37(a) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, moves the Trademark Trial and Appeal Board (the "Board"), to compel the Registrant, INTERNATIONAL GOLD STAR TRADING CORP. (hereinafter "Registrant"), to respond fully and



04-03-2007

U.S. Patent & TMO/TM Mail Rept Dt #72

without objection to (1) Petitioner's First Request for Production of Documents directed to Registrant; and (2) Petitioner's First Set of Interrogatories directed to Registrant, both of which were duly and timely served upon counsel for Registrant on December 29, 2003.

STATEMENT OF FACTS

On December 29, 2003, Petitioner duly and timely served (1) Petitioner's First Request for Production of Documents directed to Registrant; and (2) Petitioner's First Set of Interrogatories directed to Registrant. (True copies of said Requests for Production are attached hereto as **Exhibit A**; and true copies of said Interrogatories are attached hereto as **Exhibit B**.) Registrant's responses were due to be served on Petitioner by January 29, 2004. To date, Registrant has failed and refused to provide any response whatsoever to Petitioner's timely and duly served Requests for Production and Interrogatories.¹

Undersigned counsel for Petitioner, in a good faith effort to obtain full and complete discovery responses,

¹ Similarly, on December 30, 2003, Petitioner duly and timely served Petitioner's First Requests for Admissions directed to Registrant pursuant to Section 2.120 of the Rules of Practice in Trademark cases and Rule 36 of the Federal Rules of Civil Procedure. (True copies of the Requests for Admissions are attached hereto as **Exhibit C**). Registrant's Responses were to be served upon Petitioner by January 30, 2004. Registrant did not and to date has not served any responses or objections to Petitioner's Requests for Admissions. Accordingly each matter of which an admission was requested is admitted by Registrant, pursuant to Fed.R.Civ.P. 36.

discussed the matter with counsel for Registrant on or about February 2, 2004. During that telephone conversation, the undersigned and counsel for Registrant mutually agreed to extend each other's time to respond to outstanding discovery demands by three weeks². Registrant's responses to Petitioner's discovery demands then became due on February 24, 2004. After not receiving any response, counsel for Petitioner sent by first class mail a letter dated March 24, 2004 to counsel for Registrant addressing the Registrant's failure to respond to Petitioner's discovery requests. A true copy of this letter is attached hereto as **Exhibit D**.

Thereafter, both parties have attempted to negotiate a settlement of the matter as is evident from the various consented motions for extensions that have been filed with the TTAB, some representative samples of which are annexed hereto collectively as **Exhibit E**³, and all of which are on file with the Board.

The parties have made efforts to resolve this matter, but have had difficulty reaching a mutually acceptable resolution, as is further made evident by my letter to counsel

² Petitioner has fully complied with all of its discovery obligations in this matter.

³ It is respectfully requested that the Board take notice that all of the Stipulated Requests to Extend Trial Dates prominently state that "Registrant has not responded to Petitioner's timely served discovery demands."

for Registrant dated October 19, 2005, and previously served by both facsimile and first class mail, a copy of which is annexed as **Exhibit F**.

On July 31, 2006 the undersigned transmitted a further good faith demand that Registrant provide full and fair responses to Petitioner's Requests for Production and Interrogatories. A true copy of said letter, transmitted by fax and first class mail, is annexed as **Exhibit G**. Thereafter, counsel for both parties conferred and undertook to make further efforts to resolve the matter in dispute.

As the two parties have been unable to reach a settlement in this proceeding, Petitioner now files this Motion to Compel in order to complete discovery in order to be able to proceed with its testimony period.

ARGUMENT

The purpose of discovery is to provide information which may aid a party in the preparation of its case. Bison Corp. v. Prefecta Chemie B.V., 4 U.S.P.Q. 2d 1718, 1720, (TTAB 1987). Each party to an *inter partes* proceeding has an obligation to thoroughly check its records in order to provide requested discovery that is within the scope of the rules. Id. If a party fails to answer an interrogatory or answers incompletely, evasively, or by ill-founded objections, the

propounding party may move for an order compelling the answers. Fed. R. Civ. P. 33(b)(5). In addition, when the party to whom the discovery demand is directed fails to respond, or to fully and completely respond, to requests for production, the propounding party may bring a motion to compel, Fed. R. Civ. R. 34(b), or move for an appropriate order under Rule 37(a).

Petitioner served proper and customary discovery requests on Registrant in compliance with the Rules. See Exhibits A, B and C. Petitioner's requests properly sought discoverable information and things. Id. Registrant has failed to provide any answers or responses to Petitioner's requests as required by the Rules. Moreover, because Registrant failed to even assert objections to Petitioner's discovery demands, it has waived any right to assert objections.

Under Federal Rule 33(b)(1) Registrant is obligated to answer each interrogatory fully and completely and furnish all discoverable information requested. See Semper v. Johnson & Higgins, 45 F.3d 724, 734-735 (3d Cir. 1995); Martin v. Brown, 151 F.R.D. 580, 593 (W.D. Pa. 1993). Furthermore, Registrant has a similar duty under Rule 34 to respond to requests for production. See Fisher v. Marubeni Cotton Corp., 526 F.2d 1338, 1341-42 (8th Cir. 1975). Registrant has failed to comply with said Rules. Thus, Petitioner will be severely prejudiced unless

the Board compels Registrant to respond fully to Petitioner's discovery requests, and to respond without objection since the Registrant has waived its right to object to any of said discovery requests.

Further, Petitioner has fully satisfied its obligation under 37 C.F.R. § 2.120 by making repeated follow-up good faith efforts to obtain discovery responses in this matter.

CONCLUSION

Registrant has failed to satisfy its duty to provide Petitioner with responses to Petitioner's discovery requests. Accordingly, Registrant should be ordered to fully answer Petitioner's First Set of Interrogatories, without objection and to promptly produce to Petitioner all documents and things demanded in Petitioner's Requests For Production of Documents. Furthermore, since the Petitioner's 30-day testimony period is now scheduled to open on or about April 4, 2007, the Board is requested to suspend the case with respect to all matters not germane to the motion, pursuant to TBMP §523.01(2); and if deemed appropriate, to re-set the closing date for the discovery period so that it will remain open for a reasonable period of time following the Registrant's service of its responses upon Petitioner, in order to give Petitioner a fair opportunity to serve follow-up discovery requests or object to any incomplete

responses. Petitioner further respectfully request such other, further and different relief as the Board deems just, proper and equitable.

Respectfully submitted,

FOUR SEASONS DAIRY, INC.

Dated: March 31, 2007

By: 

Samuel Friedman, Attorney at Law
225 Broadway, Suite 1804
New York, New York 10007
Tel. (212) 267-2900

Attorney for Petitioner

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

In the Matter of Registration No. 2479287

Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing PETITIONER'S MOTION TO COMPEL DISCOVERY in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by First Class Mail, on counsel for Registrant, addressed as follows:

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



Samuel Friedman

March 31, 2007

Date

EXHIBIT

A

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

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

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Petitioner Four Seasons Dairy, Inc., hereby addresses its First Set of Requests for Production of Documents to Registrant International Gold Star Trading Corp. to be responded to and complied with fully within thirty (30) days of service thereof.

INSTRUCTIONS AND DEFINITIONS OF TERMS

A. As used herein, the term "Petitioner" refers to Four Seasons Dairy, Inc., and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Petitioner, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Petitioner.

B. The terms "Petitioner's Marks" refers to any designation and/or trademark used or intended to be used by Petitioner to identify Petitioner or the goods or services offered or promoted by Petitioner in connection with that term, and collectively refers to the mark in the cyrillic alphabet БАБУШКИНО that means "granny" and is transliterated as "BABUSHKINO" owned by Petitioner, including without limitation, United States Trademark Serial No. 76/174746 for the mark and cited by Petitioner in its Petition for Cancellation.

C. The term "Registrant" refers to International Gold Star Trading Corp. and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Registrant, including all

of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Registrant.

D. The terms "Registrant's Mark" or "BABUSHKA'S RECIPE" refers to the trademark registered under United States Trademark Registration No. 2479287 and sought to be cancelled by means of the instant Petition for Cancellation.

E. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Registrant and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Registrant, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks, not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

In the event Registrant wishes to assert either attorney-client privilege or work-product exclusion, or both, as to any document for which production is requested by any of the following specific document requests, then as to each document subject to such assertion, Registrant is requested to provide such identification to include: the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Registrant associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document.

F. Over and above the requirements of Rule 26(e) of the Federal Rules of Civil Procedure to supplement responses, it is requested that these discovery requests be treated as continuing. If Registrant becomes aware of any supplemental information or documents relating to these discovery requests and which were not included in the initial

responses hereto, Registrant is requested to furnish said additional information or documents to the attorneys for Registrant as soon as possible.

REQUESTS FOR PRODUCTION

Request No. 1:

Produce all documents which record, refer to, or relate to the organization, incorporation, structure, operation and activities of Registrant insofar as they relate to any products sold and/or services offered by and/or intended to be sold, offered or promoted by Registrant under Registrant's Mark.

Response:

Request No. 2:

Produce all documents which record, refer to, or relate to any licenses, assignments, agreements, contracts, and/or arrangements between Registrant and any third party which relate in any manner to Registrant's Mark and/or any mark that includes the terms BABUSHKA or BABUSHKINO.

Response:

Request No. 3:

Produce all documents which record, refer to, or relate to Registrant's use of the BABUSHKA'S RECIPE designation, including Registrant's investigation of Registrant's Mark for its availability for adoption and registration, its licensing, use, intended use, exploitation, and/or intended exploitation.

Response:

Request No. 4:

Produce all documents which record, refer to, or relate to Registrant's use of the terms BABUSHKA or BABUSHKINO in connection with any goods and/or services.

Response:

Request No. 5:

Produce all documents which record, refer to, or relate in any manner to the subject matter of this cancellation proceeding.

Response:

Request No. 6:

Produce all documents which record, refer to, or relate to goods and/or services which are or are to be provided under Registrant's Mark.

Response:

Request No. 7:

Produce all documents which record, refer to, or relate to Registrant's advertising, intended advertising, promotion, and/or intended promotion of any goods and/or services under Registrant's Mark.

Response:

Request No. 8:

Produce all documents which record, refer to, or relate to Registrant's sales or intended sales of any goods and/or services under Registrant's Mark.

Response:

Request No. 9:

Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Registrant's Mark and/or any mark including the terms BABUSHKA or BABUSHKINO, including samples of any names, designations and/or other marks considered and rejected.

Response:

Request No. 10:

Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Registrant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Registrant's Mark, or of the terms BABUSHKA or BABUSHKINO.

Response:

Request No. 11:

Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal,

of marks incorporating the terms BABUSHKA or BABUSHKINO by Registrant including, without limitation, U.S. Trademark Registration No. 2,479,287.

Response:

Request No. 12:

Produce all documents which record, refer to, or relate to Registrant's consideration or decision to select, adopt and/or use Registrant's Mark and/or any designation including the terms BABUSHKA or BABUSHKINO in each different logotype, design, hang tag, packaging, font of type or style in which said designation is being used, or is intended to be used, by or on behalf of Registrant.

Rêsponse:

Request No. 13:

Produce a sample of each different logotype, design, hang tag, packaging, font of type or style in which Registrant's Mark and/or any designation including the terms BABUSHKA or BABUSHKINO is being used, or is intended to be used, by or on behalf of Registrant.

Response:

Request No. 14:

Produce a sample of each and every different advertisement, intended advertisement, item of promotional material and/or intended item of promotional material printed and/or disseminated by or for Registrant in which Registrant's Mark appears and/or any designation that includes the terms BABUSHKA or BABUSHKINO.

Response:

Request No. 15:

Produce a sample of each Product which is being used or is intended to be used by Registrant in which Registrant's Mark appears.

Response:

Request No. 16:

Produce copies of all television commercials, press releases, radio scripts and other media advertising not previously requested herein, prepared by or for Registrant whether or not released or aired, in which Registrant's Mark appears.

Response:

Request No. 17:

Produce all documents which record, refer to, or relate to Registrant's advertising and/or promotional expenditures, or expected advertising and/or promotional expenditures, for any goods offered for sale, sold and/or distributed under Registrant's Mark including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

Response:

Request No. 18:

Produce all documents which record, refer to, or relate to the amount of sales (actual and/or projected) by calendar quarter of goods sold by or for Registrant under Registrant's Mark including, without limitation, the identification of the goods or services, the number of units and/or services sold, the dates of the sales, and the dollar value of the sales.

Response:

Request No. 19:

Produce all documents which record, refer to, or relate to any communication, oral or written, received by Registrant from any person which suggests, implies, or infers any connection or association between Petitioner, and Registrant, or which inquires as to whether there is or may be such a connection or association, based upon Registrant's and/or Petitioner's and/or their licensees' or sublicensees' use of their respective marks and/or any designation that includes the terms BABUSHKA or BABUSHKINO.

Response:

Request No. 20:

Produce all documents which record, refer to, or relate to any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any person between Registrant's use of the Mark and Petitioner's Mark.

Response:

Request No. 21:

Produce all documents which record, refer to, or relate to Registrant's knowledge and/or awareness of the use and/or application for registration of Petitioner's Mark by Petitioner.

Response:

Request No. 22:

Produce all documents which record, refer to, or relate to any inquiry, investigation, evaluation, analysis, or survey conducted by Registrant or any person acting for or on behalf of Registrant regarding any issues involved in this proceeding.

Response:

Request No. 23:

Produce all documents which record, refer to, or which constitute any research, reports, surveys, or studies conducted by or on behalf of Registrant of consumer or customer perception of Registrant's Mark.

Response:

Request No. 24:

Produce all documents in Registrant's possession or control that refer or relate to Petitioner or Petitioner's Marks.

Response:

Request No. 25:

Produce all press releases, articles and clippings relating to or commenting on goods or services marketed or sold under Registrant's Mark.

Response:

Request No. 26:

Produce documents sufficient to identify all goods and/or services in connection with which Registrant uses and/or intends to use Registrant's Mark and/or any designation that includes the terms BABUSHKA or BABUSHKINO.

Response:

Request No. 27:

Produce a copy of any statements and/or opinions of any expert obtained by Registrant or any person acting for or on behalf of Registrant regarding any of the issues in this cancellation proceeding.

Response:

Request No. 28:

Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Registrant intends to rely in connection with this cancellation proceeding.

Response

Request No. 29

Produce all documents identified in response to Petitioner's First Set of Interrogatories to Registrant, not produced in response to the above requests.

Response:

Dated: December 29, 2003

By: Samuel Friedman (ecf)
Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Petitioner's First Request for Production of Documents in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by Federal Express, Overnight on counsel for Registrant, addressed as follows:

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


Eunice Quinones

December 29, 2003

Date

Tm\4seasons\babushki\cancel\rfp



4 BARCLAY ST
NEW YORK, NY 10007

Location: WTCN
Device ID: WTCN-POS3
Employee: 310803
Transaction: 300042853136

STANDARD OVERNIGHT
839026871533 0.5 lb (M) \$11.70

Shipment subtotal: \$11.70

Total Due: \$11.70

FedEx Account: \$11.70
****74614

M = Weight entered manually
S = Weight read from scale
T = Taxable item

Subject to additional charges. See FedEx Service Guide at fedex.com for details. All merchandise sales final.

Visit us at: www.fedex.com
Or call 1-800-Go-FedEx®
(800)463-3339

December 29, 2003 4:47:11 PM

FedEx USA Airbill

Express

8390 2687 1533

1 From Please print and press hard

Date 12/29/03

Sender's FedEx Account Number

1735-7461-4

Sender's Name

Phone (212) 267-2900

Company SAMUEL FRIEDMAN ATTY AT LAW

Address 225 BROADWAY RM 1804

City NEW YORK

State NY ZIP 10007-3749

2 Your Internal Billing Reference

OPTIONAL

3 To

Recipients Roger S. Thompson

Phone (212) 687-2770

Company Cohen, Pontant, Lieberman & Pavana

Address 551 Fifth Avenue

Address

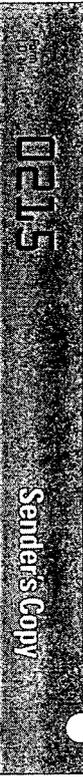
City New York

State NY ZIP 10176

Try online shipping at fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability. Questions? Visit our Web site at fedex.com or call 1.800.Go.FedEx® 800.463.3339.

0240696713



4a Express Package Service

FedEx 2Day
 Second business day
 Next business morning
 FedEx Priority Overnight
 Next business afternoon

Packages up to 150 lbs.
Delivery commitment may be void in some areas.
 FedEx First Overnight
 Express next business morning
delivery to select locations

4b Express Freight Service

FedEx 2Day Freight
 Second business day
 FedEx 1Day Freight*
 Next business day

Packages over 150 lbs.
Delivery commitment may be void in some areas.
 FedEx 3Day Freight
 Third business day

5 Packaging

FedEx Envelope*

FedEx Pak*
Indicates FedEx Small Pak, FedEx Large Pak, and FedEx Specialty Pak.

Other

6 Special Handling

SATURDAY Delivery Available ONLY for FedEx Priority Overnight and FedEx 2Day services. ZIP codes: Does this shipment contain dangerous goods? One box must be checked.

HOLD Weekday at FedEx Location NOT Available for FedEx First Overnight

HOLD Saturday at FedEx Location Available ONLY for FedEx First Overnight and FedEx 2Day services

7 Payment Bill to

Sender
 Recipient
 Third Party
 Credit Card
 Cash/Check

Total Packages

Total Weight

Total Declared Value*

\$.00

*Liability is limited to \$100 unless you declare a higher value. See back for details.

8 Release Signature

Sign to authorize delivery without obtaining signature.

447

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE

EXHIBIT

B

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

**PETITIONER'S FIRST SET OF INTERROGATORIES
TO REGISTRANT INTERNATIONAL GOLD STAR TRADING CORP.**

Pursuant to the provisions of 37 CFR §2.120 and Rule 33 of the Federal Rules of Civil Procedure, Petitioner, Four Seasons, Dairy, Inc., hereby serves the following interrogatories upon Registrant, International Gold Star Trading Corp. to be answered under oath by Registrant within thirty (30) days of service hereof.

INSTRUCTIONS AND DEFINITION OF TERMS

A. As used herein, the term "Petitioner" refers to Four Seasons Dairy, Inc., and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Petitioner, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Petitioner.

B. The terms "Petitioner's Marks" refers to any designation and/or trademark used or intended to be used by Petitioner to identify Petitioner or the goods or services offered or promoted by Petitioner in connection with that term, and collectively refers to the mark in the cyrillic alphabet БАБУШКИНО that means "granny" and is transliterated as BABUSHKINO owned by Petitioner, including without limitation, United States Trademark Serial No. 76/174746 and cited by Petitioner in its Petition for Cancellation.

C. The term "Registrant" refers to International Gold Star Trading Corp. and/or its licensee(s), and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Registrant, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Registrant.

D. The terms "Registrant's Mark" or "BABUSHKA'S RECIPE" refers to the designation and/or trademark registered under United States Trademark Registration No. 2479287- and sought to be cancelled in the instant proceeding

E. Wherever in the following interrogatories Registrant is asked to identify documents, it is requested that the documents be identified by stating:

- a. General type of document, i.e., letter, memorandum, report, miscellaneous, notes, etc.;
- b. Date;
- c. Author;
- d. Organization, if any, with which author was connected;
- e. Addressee or recipient;
- f. Other distributees;
- g. Organization, if any, with which addressee or recipient, or distributees were connected;
- h. General nature of the subject matter to extent that Registrant can do so without divulging matter considered by it to be privileged;
- i. Present location of such document and each copy thereof known to Registrant, including the title, index number and location, if any, of the file in which the document is kept or the file from which such document was removed, if removed for the purposes of this case, and the identity of all persons responsible for the filing or other disposition of the document.

F. Wherever in the following interrogatories Registrant is asked to identify persons, it is requested that the persons be identified by stating:

- a. Their full name, home and business addresses, if known;
- b. Their employment, job title or description; and
- c. If employed by Registrant, their dates and regular places of employment and general duties.

G. Wherever in the following interrogatories Registrant is asked to identify companies or the response to an interrogatory would require the identification of a company, it is requested that the company be identified by stating:

- a. Its full corporate name;
- b. A brief description of the general nature of its business;
- c. Its state of incorporation;
- d. The address and principal place of business; and
- e. The identity of the officers or other person having knowledge of the matter with respect to which the company has been identified.

H. Wherever in the following interrogatories Registrant is asked to identify goods, products or services, or the marking used in combination with the goods or services, it is requested that the same be identified by stating the catalog, stock, model or the like number or designation, the trademark, name, type, grade, design element, or stylized appearance of the mark, and any other designation customarily used by the party concerned to designate such goods, products or services, or the like, and to distinguish it from others made by the same or a different producer.

I. Should Registrant deem to be privileged any document concerning information which is requested by any of the following interrogatories, Registrant shall list such documents and supply information as requested in Paragraph E above concerning such documents, and additionally shall indicate that they claim privilege therefor, briefly state the nature of the document, the sender, the author, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Registrant associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document

J. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Registrant and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Registrant, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

K. Each of the separate interrogatories herein is deemed to seek separate answers and responses as of the date hereof and these interrogatories shall be deemed to be continuing and any additional information relating in any way to these interrogatories and to events occurring or documents existing prior to the filing of the Opposition herein which Registrant acquires or which becomes known to Registrant up to and including the close of the rebuttal testimony period shall be furnished to Registrant within a reasonable time after such information is acquired or becomes known.

INTERROGATORIES

Interrogatory No. 1:

Identify all officers and directors of Registrant from 1997 to the present.

Response:

Interrogatory No. 2:

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Registrant and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to Registrant's Mark.

Response:

Interrogatory No. 3:

With respect to Registrant's Mark, identify the person or persons most knowledgeable about Registrant's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

Response:

Interrogatory No. 4:

Identify all state and federal registrations, applications for registration, and uses by Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

Response:

Interrogatory No. 5:

Identify all third-party state and federal registrations, applications for registration, and uses known to Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

Response:

Interrogatory No. 6:

Describe in detail the nature of Registrant's business or businesses, including the date on which Registrant first engaged in each such business.

Response:

Interrogatory No. 7:

Identify and describe each of the goods and/or services on which Registrant intends to use or has used Registrant's Mark, or any variation thereof.

Response:

Interrogatory No. 8:

Identify all documents and set forth with specificity all facts regarding the selection by Registrant of Registrant's Mark including, without limitation, the circumstances and method by which Registrant adopted the terms BABUSHKA as a part of its mark.

Response:

Interrogatory No. 9:

Describe in detail the derivation of the terms BABUSHKA'S RECIPE as Registrant's Mark and identify all documents related thereto.

Response:

Interrogatory No. 10:

Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the BABUSHKA'S RECIPE designation, and for each such person state his/her title and the role he/she played to adopt, register and/or use the BABUSHKA'S RECIPE designation.

Response:

Interrogatory No. 11:

State whether any searches or investigations were conducted by Registrant, its attorneys, or any persons on its behalf to determine whether Registrant's Mark was available for use and/or registration, and, if so, identify each such search or investigation including the date such search or investigation was performed and the marks located in such search or investigation.

Response:

Interrogatory No. 12:

Identify all manufacturers or intended manufacturers of goods, and all promoters or intended promoters of services, bearing Registrant's Mark.

Response:

Interrogatory No. 13:

For each of the goods identified in Registrant's application, to register Registration's Mark, identify all documents supporting the date on which the mark was first used.

Response:

Interrogatory No. 14:

Identify all documents and set forth with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under Registrant's Mark are those of Petitioner, or are connected or associated with Petitioner, and for each such incident provide the date of such incident, the identity of the person or entity, and a detailed description of the circumstances of such confusion, mistake and/or deception.

Response:

Interrogatory No. 15:

Identify all documents and set forth with specificity the substance of each communication, oral or written, received by Registrant, which suggests, implies or infers that any of the products of Registrant sold under Registrant's Mark, or any mark that includes the terms BABUSHKA'S or BABUSHKINO, is a product of Petitioner or is affiliated, connected and/or associated with Petitioner, or which inquires as to whether there is or may be an affiliation, connection and/or association between Registrant and Petitioner, and identify any response(s) by Registrant to each such communication.

Response:

Interrogatory No. 16:

Identify all inquiries, investigations, surveys, evaluations and or studies conducted by Registrant or by anyone acting for or on its behalf with respect to Registrant's Mark, and marks owned or used by Registrant which incorporate the terms BABUSHKA'S or BABUSHKINO as an element of the mark, including the date conducted, the name, address and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made, and identify all documents which record, refer to, or relate to such inquiry, investigation, survey, evaluation or study.

Response:

Interrogatory No. 17:

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to Registrant which contains or bears Registrant's Mark or any variation thereof and which is intended to be used or has been used or disseminated at any time by Registrant.

Response:

Interrogatory No. 18:

Identify each person employed by Registrant, or each outside agency or agent retained by Registrant, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under Registrant's Mark:

- a. marketing;
- b. advertising and promotion; and
- c. bookkeeping and accounting.

Response:

Interrogatory No. 19:

Has Registrant ever licensed or permitted or had negotiations to license or permit, or otherwise granted rights to third parties to use Registrant's Mark or any mark including the terms BABUSHKA'S or BABUSHKINO as a component? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated, and identify and describe all documents comprising or containing any such license, permission, or other right, or any agreement in respect to such mark.

Response:

Interrogatory No. 20:

For each of the goods or services sold under Registrant's Mark, set forth the number of units and dollar amount of the annual sales of such goods or services, the dollar amount of annual advertising expenditure on such goods or services, and the individual media through which such advertising took place, and the dollar amount of advertising through each such media; and identify documents sufficient to support your response to this interrogatory.

Response:

Interrogatory No. 21:

State in detail the channels of trade in which Registrant's Mark is used and/or in which goods bearing Registrant's Mark are sold, including the geographic area by state, territory or possession in which Registrant's Mark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

Response:

Interrogatory No. 22:

Identify each statement or opinion obtained by or for Registrant regarding any issue in this cancellation proceeding including, but not limited to, whether the statement was oral or in writing, and identify all documents which record, refer to, or relate to such statement or opinion.

Response:

Interrogatory No. 23:

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for Registrant under Registrant's Mark, including, without limitation, the names of television stations, radio stations, Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which Registrant has advertised and intends to advertise its goods and/or services under Registrant's Mark, and identify documents sufficient to support your response to this interrogatory.

Response:

Interrogatory No. 24:

Identify the ordinary purchaser of the goods or services sold and intended to be sold under Registrant's Mark including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under Registrant's Mark.

Response:

Interrogatory No. 25:

Identify all documents relating to and set forth with specificity all facts regarding any instance where Registrant has notified anyone that any trademark or service mark used by that person or entity infringed Registrant's Mark and/or any mark of Registrant that includes the terms BABUSHKA'S or BABUSHKINO, and for each such instance provide a detailed description of any action taken thereafter.

Response:

Interrogatory No. 26:

Has Registrant ever been a party to any litigation or administrative proceeding, other than the present cancellation proceeding involving Registrant's Mark? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, Registrant's status therein, the mark or marks involved, the type of proceeding involved, the name of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each document relating to such proceeding.

Response:

Interrogatory No. 27:

For purposes of establishing priority of use, identify the earliest date upon which Registrant intends to rely in this proceeding with respect to its use of Registrant's Mark and/or any mark that includes the terms BABUSHKA or BABUSHKINO, and produce all documents relating to such use(s).

Response:

Interrogatory No. 28:

Describe the meaning and derivation of the phrase BABUSHKA'S RECIPE as used in connection with the goods of Registrant upon or in connection with which Registrant has used that phrase.

Response:

Interrogatory No. 29:

State the approximate percentage of sales of products bearing Registrant's Mark via the Internet versus other sales channels, and identify documents sufficient to support your response to this Interrogatory.

Response:

Interrogatory No. 30:

Identify all experts employed by Registrant for purposes of this action. For each expert, identify his or her field of specialization, whether Registrant intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each opinion, and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

Response:

Interrogatory No. 31:

Identify each non-expert witness that Registrant expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

Response:

Interrogatory No. 32:

Identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.

Response

Dated: December 29, 2003

By: Samuel Friedman
Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.



CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Petitioner's First Set of Interrogatories to Request for Production of Documents in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by Federal Express, Overnight on counsel for Registrant, addressed as follows:

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


Eunice Quinones

December 29, 2003
Date

tm\4seasons\babushka\cancel\int



4 BARCLAY ST
NEW YORK, NY 10007

Location: WTCN
Device ID: WTCN-POS3
Employee: 310803
Transaction: 300042853136

STANDARD OVERNIGHT
839026871533 0.5 lb (M) \$11.70
Shipment subtotal: \$11.70
Total Due: \$11.70
FedEx Account: ****74614

M = Weight entered manually
S = Weight read from scale
T = Taxable item

Subject to additional charges. See FedEx Service Guide at fedex.com for details. All merchandise sales final.

Visit us at: www.fedex.com
Or call 1-800-Go-FedEx®
(800)463-3339

December 29, 2003 4:47:11 PM

FedEx USA Airbill

Express

Tracking Number: 8390 2687 1533

1 From Please print and press hard

Date: 12/29/03

Sender's FedEx Account Number:

1735-7461-4

Sender's Name:

Phone (212) 267-2900

Company: SAMUEL FRIEDMAN ATTY AT LAW

Address: 225 BROADWAY RM 1804

Dept./Room/Suite/Room

City: NEW YORK

State: NY

ZIP: 10007-3749

2 Your Internal Billing Reference

For X characters will appear on invoice

OPTIONAL

3 To:

Recipient's Name: Roger S. Thompson

Phone (212) 687-2770

Company: Cohen, Pontani, Lieberman & Pavana

Address: 551 Fifth Avenue

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address to "HOLD" at FedEx location, print FedEx address.

City: New York

State: NY

ZIP: 10176

Dept./Room/Suite/Room

Try online shipping at fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.
Questions? Visit our Web site at fedex.com or call 1.800.Go.FedEx® 800.463.3339.

0240696713

02415

Sender's Copy

4a Express Package Service

FedEx 2Day
Second business day
FedEx Envelope also not available. Minimum charge: One-pound rate.

FedEx Express Saver
Third business day

FedEx 1Day Freight*
Next business day

FedEx 2Day Freight
Second business day

FedEx 30Day Freight*
Third business day

FedEx Priority Overnight
Next business morning

FedEx Standard Overnight
Next business afternoon

FedEx First Overnight
Earliest next business morning delivery to select locations

FedEx Overnight
Earliest next business morning delivery to select locations

FedEx International
Earliest next business morning delivery to select locations

FedEx 2Day
Second business day
FedEx Envelope also not available. Minimum charge: One-pound rate.

FedEx Express Saver
Third business day

FedEx 1Day Freight*
Next business day

FedEx 2Day Freight
Second business day

FedEx 30Day Freight*
Third business day

4b Express Freight Service

FedEx 1Day Freight*
Next business day

FedEx 2Day Freight
Second business day

FedEx 30Day Freight*
Third business day

* Call for Confirmation.

5 Packaging

FedEx Envelope*

FedEx Pak*
Includes FedEx Small Pak, FedEx Large Pak, and FedEx Envelope Pak.

Other

6 Special Handling

Saturday Delivery
Available ONLY for FedEx Priority Overnight and FedEx 2Day services ZIP codes

HOLD Weekday at FedEx Location
NOT Available for FedEx First Overnight

HOLD Saturday at FedEx Location
Available ONLY for FedEx Priority Overnight and FedEx 2Day services ZIP codes

Does this shipment contain dangerous goods?
One box must be checked.

No

Yes
As per manifest
Shipper's Declaration not required

Dry Ice
Dry Ice UN 1845

Payment Bill to:
Sender Recipient Third Party Credit Card Cash/Check

Enter FedEx Account No. or Credit Card No. below:

FedEx Account No. (Optional)

Total Packages

Total Weight

Total Declared Value*

Ex. Tax

* Liability is limited to \$100 unless you declare a higher value. See back for details.

8 Release Signature
Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

447

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE.

EXHIBIT

C

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

**PETITIONER FOUR SEASONS DAIRY, INC.'s FIRST REQUESTS FOR
ADMISSIONS**

Petitioner Four Seasons Dairy, Inc., pursuant to Section 2.120 of the Rules of Practice in Trademark Cases and Rule 36 of the Federal Rules of Civil Procedure, hereby requests that Registrant International Gold Star Trading Corp. within thirty (30) days from the date of service, admit the truth of the following matters in writing.

DEFINITIONS AND INSTRUCTIONS

A. For purposes of these requests, unless otherwise indicated or unless the context otherwise requires:

1. The term "any" shall be construed to include the word "all" and "all" shall be construed to include the word "any" as necessary to bring within the scope of a request all responses which might otherwise be construed to be outside its scope.

2. The term "between" shall be construed to include the word "among" and "among" shall be construed to include the word "between" as necessary to bring within the scope of a request all responses which might otherwise be construed to be outside its scope.

3. The terms "you" or "your" or "Registrant" shall refer to International Gold Star Trading Corp., and any affiliated corporations or other business entities under its control, any predecessors or successors in interest with respect to the "BABUSHKA'S RECIPE" mark, any licensees or other entities that have or are intended to use the "BABUSHKA'S RECIPE" mark with the consent of Registrant, and any of its directors, officers, employees, agents or representatives.

4. The term "document" shall mean the original and each non-identical copy (whether different from the original because of notes made on the copy or otherwise) or draft of each writing of every kind and description (together with all worksheets, supporting documents, and other relevant material), whether inscribed by hand or mechanical, electronic, microfilm, photographic or other means (such as recording, film, tape, videotape, disc, diskette, CD-ROM disc, laser disc, or other means including data processing files and other computer readable records or programs and all other data compilations from which information can be obtained, transcribed and translated), and including, but not limited to, correspondence, letters, telegrams, telefaxes, telexes, E-Mail, messages, TWX's, telephone logs, diaries, teletype messages, memoranda, notes, reports, printouts, records of meetings, conferences or telephone or other conversations or communications, appointment calendars, surveys, studies, statistical analyses, technical analyses, test reports, search reports, tabulations, drawings, plans, blueprints, specifications, graphs, books, magazines, newspapers, publications, articles, booklets, pamphlets, circulars, bulletins, brochures, advertising copy, contract bids, contracts, contract addenda, amendments, changes and modifications.

5. The term "Petitioner" shall refer to Four Seasons Dairy, Inc. and, where appropriate in the context, its predecessors in interest, parents, subsidiaries and/or affiliated corporations.

B. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, wherever necessary to bring within the scope of a request all responses which might otherwise be construed to be outside its scope.

C. A plural noun shall be construed as a singular noun, and a singular noun shall be construed as a plural noun, wherever necessary to bring within the scope of a request all responses which might otherwise be construed to be outside its scope.

D. Definitions provided herein apply to any grammatical variant of the term or phrase definition.

E. Unless otherwise indicated, the geographical scope of these requests are limited to the United States of America.

REQUESTS FOR ADMISSION

1. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2001 to the present.

2. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2000 to the present.

3. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1999 to the present.
4. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1998 to the present.
5. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1997 to the present.
6. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1996 to the present.
7. Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2001 to the present.
8. Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2000 to the present.
9. Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1999 to the present.
- 10 Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1998 to the present.
11. Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1997 to the present.
12. Registrant failed to use the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1996 to the present.
13. Registrant has never used the "БАБУШКИНО" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables".
14. Registrant has never used the "БАБУШКИНО" mark on or in connection with goods that are related to Dairy products.

15. Registrant has never used the "БАБУШКИНО" mark on or in connection with goods in Class 29.
16. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with vegetable oil spread.
17. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with vegetable extracts.
18. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with butter.
19. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with cottage cheese.
20. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with yogurt.
21. Registrant never used the "BABUSHKA'S RECIPE" mark in 1998.
22. Registrant never used the "BABUSHKA'S RECIPE" mark in 1997.
23. Registrant never used the "BABUSHKA'S RECIPE" mark in 1996.
24. Registrant has never objected to Petitioner's use of the mark БАБУШКИНО in connection with Dairy products.
25. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with vegetable oil spread.
26. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with vegetable extracts.
27. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with margarine.
28. Registrant has never opposed Petitioner's application to register БАБУШКИНО as a U.S. Trademark.
29. Registrant is not currently making use in commerce (as defined in 15 U.S.C. § 1127) of the mark БАБУШКИНО.
30. Registrant is not currently making use in commerce (as defined in 15 U.S.C. § 1127) of the mark BABUSHKINO.

31. Registrant has not controlled the nature or quality of the БАБУШКИНО Products sold by its licensees.
32. Registrant has permitted others to use trademarks including the term БАБУШКИНО without controlling the nature or quality of the goods sold under such marks.
33. Registrant has not objected to the use or registration of the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.
34. Registrant registered the mark BABUSHKA'S RECIPE without Petitioner's permission.
35. Registrant has not objected to the application to register the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.
36. Registrant has not objected to the use of the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.
37. Registrant is using the mark BABUSHKA'S RECIPE for vegetable oil spread, vegetable extracts, margarine or dairy products without Petitioner's permission.
38. Registrant has not objected to any use of the mark БАБУШКИНО by Petitioner.
39. Registrant has had knowledge since at least 1999 of Petitioner's use of the mark БАБУШКИНО for vegetable oil spread, vegetable extracts, margarine or dairy products.

Dated: December 30, 2003

By: *Samuel Friedman*
Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.



CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Petitioner's First Requests for Admissions in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by Federal Express, Overnight on counsel for Registrant, addressed as follows:

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


Eunice Quinones

December 30, 2003
Date

tm\4seasons\babushka\cancel\rfadmissions



4 BARCLAY ST
NEW YORK, NY 10007

Location: WTCN
Device ID: WTCN-POS3
Employee: 431326
Transaction: 700029417314

STANDARD OVERNIGHT
844729411935 0.5 lb (M) \$11.70
Shipment subtotal: \$11.70

Total Due: \$11.70
FedEx Account: \$11.70
****74614

M = Weight entered manually
S = Weight read from scale
T = Taxable item

Subject to additional charges. See FedEx Service Guide at fedex.com for details. All merchandise sales final.

Visit us at: www.fedex.com
Or call 1-800-Go-FedEx®
(800)463-3339

December 30, 2003 5:09:53 PM

FedEx USA Airbill
Express

FedEx Tracking Number

8447 2941 1935

1 From Please print and press hard.

Date 12/30/03

Sender's FedEx Account Number

1735-7461-4

Sender's Name

12/30/03

Phone (212) 267-2900

Company SAMUEL FRIEDMAN ATTY AT LAW

Address 225 BROADWAY STE 1804

City NEW YORK

State NY ZIP 10007

2 Your Internal Billing Reference

OPTIONAL

3 To

Recipient's Name Roger S. Thompson

Phone (212) 687-2770

Company Cohen, Pontani, Lieberman & Pavane

Address 551 Fifth Avenue

City New York

State NY ZIP 10176

Address

City New York State NY ZIP 10176

0215

Sender's Copy

4a Express Package Service

FedEx Priority Overnight
Next business morning

FedEx Standard Overnight
Next business afternoon

FedEx First Overnight
Earliest next business morning
delivery to select locations

FedEx 2Day
Second business day

FedEx Express Saver
Third business day

4b Express Freight Service

FedEx 1Day Freight*
Next business day

FedEx 2Day Freight
Second business day

FedEx 3Day Freight
Third business day

5 Packaging

FedEx Envelope*

FedEx Pak*
Large Pak and FedEx Surety Pak

Other

6 Special Handling

Signature Required
Signature required for delivery

HOLD Monday
at FedEx location
Available ONLY for
FedEx Priority Overnight and
FedEx 2Day to select locations

HOLD Saturday
at FedEx location
Available ONLY for
FedEx Priority Overnight and
FedEx 2Day to select locations

No
As per attached
Shipper's Declaration
Shipper's Declaration
Shipper's Declaration

Yes
Shipper's Declaration
Not required

Dry Ice
Dry Ice, UN 1850
x _____ kg

Dangerous Goods (including Dry Ice) service is subject to FedEx packaging
instructions.

Yes
Shipper's Declaration
Not required

Cargo Aircraft Only

7 Payment Bill to:

Sender
Account No. in Section 1 will be billed.

Recipient

Third Party

Credit Card

Cash/Check

Cash/Check

Total Packages

Total Weight

Total Declared Value \$.00

FedEx Use Only

FedEx Use Only

FedEx Use Only

By using this Airbill, you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.
Questions? Visit our Web site at fedex.com
or call 1.800.Go.FedEx® 800.463.3339.

0262622442

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.
SRS*Rev. Data 5/09*Part #15910 ©1994-2003 FedEx*PRINTED IN USA

447

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE

EXHIBIT

D

SAMUEL FRIEDMAN

ATTORNEY AT LAW

March 24, 2004

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

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

Re: Four Seasons Dairy, Inc. v.
International Gold Star Trading Corp.
Trademark Trial and Appeal Board
Cancellation Proceeding No. 92042082

Dear Mr. Thompson:

In accordance with the Trademark Rules of Practice and the Federal Rules of Civil Procedure, this letter is written in a good faith effort to resolve discovery disputes.

Respondent was duly served with Petitioner's discovery demands including Interrogatories and Document Demands on December 29, 2003. Petitioner's Requests for Admissions, among other things, were served on December 30, 2003. All of the aforesaid discovery demands were served by Federal Express.

On or about February 2, 2004 during a telephone conversation, you and I mutually agreed to extend each other's time to respond to outstanding discovery demands by three weeks. Respondent's responses to discovery demands then became due on or about February 24, 2004.

To date, I have not received any responses or objections to Petitioner's discovery demands. Respondent has thus waived any right to assert objections.

Request is hereby made that you immediately provide all discovery responses, without objections, as any right to assert objections has been waived.

Under the revised Scheduling Order, Petitioner's 30-day testimony period opened on or about March 20, 2004. Due to your failure and refusal to provide discovery responses Petitioner is unable to proceed with its testimony. Accordingly, Petitioner requires a rescheduling of trial dates and related schedules as a result of Respondent's default.

In the event that you do not promptly comply with the demands set forth herein Petitioner will move the tribunal for all appropriate relief.

Very truly yours,



Samuel Friedman

SF: esq
cc: Four Seasons Dairy, Inc.
Tm\4 seasons\babuskinocancel\Thompson-let

EXHIBIT

E

TTAB

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

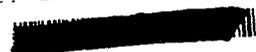
Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001



**STIPULATED REQUEST TO EXTEND
TRIAL DATES AND RELATED SCHEDULES**

04-19-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

Four Seasons Dairy, Inc., and International Gold Star Trading Corp. hereby request that the Trademark Trial and Appeal Board extend by 60 days the trial dates set forth in the Board's Scheduling Order. The additional time is requested because the parties are engaged in settlement negotiations and Registrant has not responded to Petitioner's timely served discovery demands. The new deadlines would be as follows:

30 - day testimony period for party
in position of plaintiff to close

June 18, 2004

30 - day testimony period for party
in position of defendant to close

August 17, 2004

15 - day rebuttal testimony period
for plaintiff to close

October 1, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on the date shown below:

Samuel Friedman
(Typed Name of Person Signing Certificate)

(Signature)

April 16, 2004
(Date)

Counsel for Registrant, Roger S. Thompson, consented to this request by telephone on April 16, 2004 and authorized counsel for Petitioner to file this stipulated request on behalf of both parties.

This request is not being made for purpose of delay and we therefore ask for favorable consideration.

Dated: April 16, 2004
New York, New York

Respectfully submitted,



Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing STIPULATED REQUEST TO RESET TRIAL DATES in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by First Class Mail, on counsel for Registrant, addressed as follows:

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



Samuel Friedman

April 16, 2004

Date

Tm\4seasons\babushki\cancel\stip-ext2

TTAB

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

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

75/865,702

76/174,746

STIPULATED REQUEST TO EXTEND
TRIAL DATES AND RELATED SCHEDULES

Four Seasons Dairy, Inc., and International Gold Star Trading Corp. hereby request that the Trademark Trial and Appeal Board extend by 60 days the trial dates set forth in the Board's Scheduling Order. The additional time is requested because the parties are engaged in and near conclusion of settlement negotiations and Registrant has not responded to Petitioner's timely served discovery demands. The new deadlines would be as follows:

30 - day testimony period for party
in position of plaintiff to close

November 23, 2005

30 - day testimony period for party
in position of defendant to close

January 22, 2006

15 - day rebuttal testimony period
for plaintiff to close

March 8, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on the date shown below:

Samuel Friedman
(Typed Name of Person Signing Certificate)

Samuel Friedman
(Signature)

August 22, 2005
(Date)



08-29-2005
U.S. Patent & TMO/PTM Mail Rpt Dt. #77

Counsel for Registrant, Roger S. Thompson, consented to this request by telephone on August 19, 2005 and authorized counsel for Petitioner to file this stipulated request on behalf of both parties.

This request is not being made for purpose of delay and we therefore ask for favorable consideration.

Dated: August 22, 2005
New York, New York

Respectfully submitted,

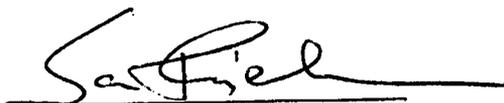


Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing STIPULATED REQUEST TO RESET TRIAL DATES in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by First Class Mail, on counsel for Registrant, addressed as follows:

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



Samuel Friedman

August 22, 2005

Date

Tm\4seasons\babushki\cancel\stip-ext6

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

TTAB
75, 865 702

In the Matter of Registration No. 2,479,287
Issued on August 21, 2001

FOUR SEASONS DAIRY, INC.,

Petitioner,

- against -

INTERNATIONAL GOLD STAR
TRADING CORP.,

Registrant

Cancellation No.: 92042082

Mark: BABUSHKA'S RECIPE

Reg. No. 2,479,287

Filed: December 7, 1999

Issued: August 21, 2001

STIPULATED REQUEST TO EXTEND
TRIAL DATES AND RELATED SCHEDULES

Four Seasons Dairy, Inc., and International Gold Star Trading Corp. hereby request that the Trademark Trial and Appeal Board extend by 60 days the trial dates set forth in the Board's Scheduling Order. The additional time is requested because the parties have resumed negotiations and efforts to reach an amicable settlement; and Registrant has not responded to Petitioner's timely served discovery demands; and counsel for Registrant has been ill. The new deadlines would be as follows:

30 - day testimony period for party
in position of plaintiff to close

May 4, 2007

30 - day testimony period for party
in position of defendant to close

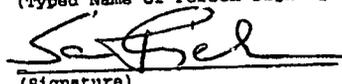
July 3, 2007

15 - day rebuttal testimony period
for plaintiff to close

August 17, 2007

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on the date shown below:

Samuel Friedman
(Typed Name of Person Signing Certificate)


(Signature)

1/30/2007
(Date)

02-02-2007

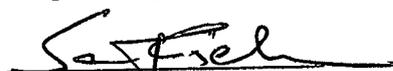
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #:

Counsel for Registrant, Roger S. Thompson, consented to this request by telephone on January 30, 2007 and authorized counsel for Petitioner to file this stipulated request on behalf of both parties.

This request is not being made for purpose of delay and we therefore ask for favorable consideration.

Dated: January 30, 2007
New York, New York

Respectfully submitted,



Samuel Friedman
225 Broadway, Suite 1804
New York, New York 10007
Tel: (212) 267-2900
Attorney for Petitioner
FOUR SEASONS DAIRY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing STIPULATED REQUEST TO RESET TRIAL DATES in Cancellation Proceeding No. 92042082 entitled Fours Seasons Dairy, Inc. v. International Gold Star Trading Corp., was served by First Class Mail, on counsel for Registrant, addressed as follows:

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


Samuel Friedman

January 30, 2007
Date

EXHIBIT

F

SAMUEL FRIEDMAN

ATTORNEY AT LAW

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

October 19, 2005

Via Fax and Mail: (212) 972-5487 (4 pages total)

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

Re: Four Seasons Dairy, Inc. v.
International Gold Star Trading Corp.
Trademark Trial and Appeal Board
Cancellation Proceeding No. 92042082

Dear Mr. Thompson:

Please advise whether you have now had the opportunity to discuss with your client the proposed consent agreement, previously forwarded to you under cover letter dated August 5, 2005.

In response to your request for proof of my client's use of the mark as early as January 1999, I would note that my client, the Petitioner, previously provided full and fair responses to Registrant's discovery demands. Registrant, on the other hand, has failed and refused to respond to Petitioner's duly served discovery demands and has therefore waived any objections.

Notwithstanding the foregoing, and in the interest of resolving this matter, I enclose copies of selected pages from Petitioner's Books of Account showing sales under Petitioner's mark in January 1999.

As this is a compromise negotiation, nothing herein may be used as evidence or construed as a waiver of any of Petitioner's rights or remedies, all of which are expressly reserved.

I look forward to your response.

Very truly yours,



Samuel Friedman

SF: aj

Encs.

Tm\4 seasons\babuskino\cancel\Thompson-le3

*** TRANSMISSION REPORT ***

OCT-19-05 15:45 ID:

JOB NUMBER 228
INFORMATION CODE OK
TELEPHONE NUMBER 12129725487
NAME (ID NUMBER)
START TIME OCT-19-05 15:43
PAGES TRANSMITTED 004 TRANSMISSION MODE EMMR
RESOLUTION STD REDIALING TIMES 00
SECURITY OFF MAILBOX OFF
MACHINE ENGAGED 01'28

THIS TRANSMISSION IS COMPLETED.

LAST SUCCESSFUL PAGE 004

SAMUEL FRIEDMAN
ATTORNEY AT LAW

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

October 19, 2005

Via Fax and Mail: (212) 972-5487 (4 pages total)

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

Re: Four Seasons Dairy, Inc. v.
International Gold Star Trading Corp.
Trademark Trial and Appeal Board
Cancellation Proceeding No. 92042082

Dear Mr. Thompson:

Please advise whether you have now had the opportunity to discuss with your client the proposed consent agreement, previously forwarded to you under cover letter dated August 5, 2005.

In response to your request for proof of my client's use of the mark as early as January 1999, I would note that my client, the Petitioner, previously provided full and fair responses to Registrant's discovery demands. Registrant, on the other hand, has failed and refused to respond to Petitioner's duly served discovery demands and has therefore waived any objections.

Notwithstanding the foregoing, and in the interest of resolving this matter, I enclose copies of selected pages from Petitioner's Books of Account showing sales under Petitioner's mark in January 1999.

As this is a compromise negotiation, nothing herein may be used as evidence or construed as a waiver of any of Petitioner's rights or remedies, all of which are expressly reserved.

I look forward to your response.

Very truly yours,


Samuel Friedman

SF: aj
Encs.

T:\M\seasons\babuskino\caaco\NThompson-1e3

EXHIBIT

G

SAMUEL FRIEDMAN

ATTORNEY AT LAW

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

July 31, 2006

Via Fax and Mail: (212) 972-5487 (2 pages total)

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

Re: Four Seasons Dairy, Inc. v.
International Gold Star Trading Corp.
Trademark Trial and Appeal Board
Cancellation Proceeding No. 92042082

Dear Mr. Thompson:

In accordance with the Trademark Rules of Practice and the Federal Rules of Civil Procedure, this letter is written in a good faith effort to resolve discovery disputes.

Respondent was duly served with Petitioner's discovery demands including Interrogatories and Document Demands on December 29, 2003. Petitioner's Requests for Admissions, among other things, were served on December 30, 2003. All of the aforesaid discovery demands were served by Federal Express.

To date, I have not received any responses or objections to Petitioner's discovery demands. Respondent has thus waived any right to assert objections. In each of the Stipulated Requests To Extend Trial Dates, previously filed during the pendency of settlement negotiations, it was noted that Registrant has not responded to Petitioner's timely served discovery demands. Petitioner has thus preserved its right to compel discovery and obtain related relief if settlement talks are unproductive.

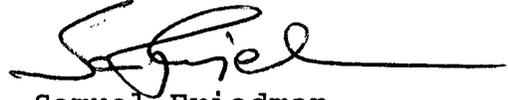
Request is hereby made that you immediately provide all discovery responses, without objections, as any right to assert objections has been waived.

Under the revised Scheduling Order, Petitioner's 30-day testimony period shall open on or about August 7, 2006. Due to your failure and refusal to provide discovery responses Petitioner is unable to proceed with its testimony. Accordingly, Petitioner requires a rescheduling of trial dates and related schedules as a result of Respondent's default.

Roger S. Thompson, Esq.
July 31, 2006
Page 2

In the event that you do not promptly comply with the demands set forth herein Petitioner will move the tribunal for all appropriate relief.

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.

MODE = MEMORY TRANSMISSION

START=JUL-31 13:51

END=JUL-31 13:56

FILE NO.=797

STN NO.	COMM.	ONE-TOUCH/ ABBR NO.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	B	12129725487	002/002	00:00:37

-LAW OFFICE 225 BROADWAY -

***** DP-190 ***** -LAW OFFICES - ***** 1 212 587 0570- *****

SAMUEL FRIEDMAN
ATTORNEY AT LAW

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

July 31, 2006

Via Fax and Mail: (212) 972-5487 (2 pages total)

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

Re: Four Seasons Dairy, Inc. v.
International Gold Star Trading Corp.
Trademark Trial and Appeal Board
Cancellation Proceeding No. 92042082

Dear Mr. Thompson:

In accordance with the Trademark Rules of Practice and the Federal Rules of Civil Procedure, this letter is written in a good faith effort to resolve discovery disputes.

Respondent was duly served with Petitioner's discovery demands including Interrogatories and Document Demands on December 29, 2003. Petitioner's Requests for Admissions, among other things, were served on December 30, 2003. All of the aforesaid discovery demands were served by Federal Express.

To date, I have not received any responses or objections to Petitioner's discovery demands. Respondent has thus waived any right to assert objections. In each of the Stipulated Requests To Extend Trial Dates, previously filed during the pendency of settlement negotiations, it was noted that Registrant has not responded to Petitioner's timely served discovery demands. Petitioner has thus preserved its right to compel discovery and obtain related relief if settlement talks are unproductive.

Request is hereby made that you immediately provide all discovery responses, without objections, as any right to assert objections has been waived.

Under the revised Scheduling Order, Petitioner's 30-day testimony period shall open on or about August 7, 2006. Due to your failure and refusal to provide discovery responses Petitioner is unable to proceed with its testimony. Accordingly, Petitioner requires a rescheduling of trial dates and related schedules as a result of Respondent's default.