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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Foster Poultry Farms, Inc.		
Entity	Corporation	Citizenship	California
Address	1000 Davis Street Livingston, CA 95334 UNITED STATES		

Correspondence information	Bobby Ghajar Howrey LLP 550 South Hope Street Los Angeles, CA 90071 UNITED STATES ghajarb@howrey.com, basilek@howrey.com, ipdocketing@howrey.com		
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Registration Subject to Cancellation

Registration No	2288097	Registration date	10/19/1999
Registrant	Happy Guests International, Inc. 1323 Harbor Avenue S.W. Seattle, WA 98116 UNITED STATES		
Goods/Services Subject to Cancellation	Class 030. First Use: 19990408, First Use In Commerce: 19990408 Goods/Services: seasoning salts and spices		

Grounds for Cancellation	The registered mark has been abandoned.
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Attachments	petition.pdf (2 pages)
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Signature	/BobbyGhajar/
Name	Bobby Ghajar
Date	07/22/2005

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

Foster Poultry Farms, Inc.,	§	
	§	Cancellation No. _____
Petitioner,	§	
	§	Registration Nos.: 2,288,097
v.	§	
	§	Dates of Issue: October 19, 1999
Happy Guests International, Inc.,	§	
	§	Subject Mark: SIMPLY FRESH
Registrant.	§	
	§	

PETITION FOR CANCELLATION

Petitioner, Foster Poultry Farms, Inc. (“Petitioner”), a California corporation with its principal place of business at 1000 Davis Street, Livingston, California 95334, believes that it will be damaged by the continued existence on the Register of Registration No. 2,288,097, registered to Happy Guests International, Inc. (“Respondent”), a Washington corporation with its principal place of business at 1323 Harbor Avenue S.W., Seattle, Washington 8116. Petitioner hereby petitions to cancel that registration under 37 C.F.R. § 2.111.

As grounds for the Petition, it is alleged that:

1. Petitioner has adopted and intends to use the mark FOSTER FARMS SIMPLY FRESH, and is the owner of pending trademark application serial nos. 78/420,182 and 78/525,987, in connection with “chicken entrees; chicken entrees sold as a unit with rice side dishes, pasta side dishes, stuffing side dishes or vegetable side dishes; complete meals consisting primarily of poultry or turkey; complete meals consisting primarily of poultry or turkey sold as a unit with rice side dishes, pasta side dishes, stuffing side dishes or vegetable side dishes in Class 29” and “raw or cooked seafood, turkey, or beef entrees in Class 29,” respectively. Petitioner also is the owner of record of pending trademark application serial no. 78/529,739 for the mark SIMPLY FRESH in connection with “fresh and frozen and cooked and uncooked poultry, fish, beef, pork and vegetable entrees or side dishes in Class 29.”

2. On information and belief, Respondent adopted and alleged first use of the mark SIMPLY FRESH in connection with “seasoning salts and spices” in 1999. This mark was

registered with the United States Patent and Trademark Office (“PTO”) under Registration No. 2,288,097 in International Class 30, dated October 19, 1999.

3. On information and belief, Respondent has ceased marketing and selling seasoning salts and spices under the mark SIMPLY FRESH.

4. On information and belief, Respondent has abandoned its use of the mark SIMPLY FRESH in the ordinary course of trade on or in connection with the goods recited in Registration No. 2,288,097, namely “seasoning salts and spices,” in International Class 30.

5. On information and belief, since Respondent abandoned its use of the mark SIMPLY FRESH in the ordinary course of trade on or in connection with the goods recited in Registration No. 2,288,097, it has not resumed use of the mark with those goods.

6. On information and belief, more than three (3) consecutive years have passed since Respondent abandoned the mark SIMPLY FRESH for use in the ordinary course of trade on or in connection with the goods recited in Registration No. 2,288,097 without the intent to resume use at a subsequent date.

WHEREFORE, Petitioner respectfully requests that Registration No. 2,288,097 be cancelled.

Respectfully submitted,

FOSTER POULTRY FARMS, INC.

Date: July 22, 2005

By: /Bobby Ghajar/
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