

# TTAB



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TERRA SUL CORPORATION a/k/a  
CHURRASCARIA BOI NA BRASA  
Petitioner

v.

BOI NA BRAZA, INC.  
Registrant

PETITION TO CANCEL

COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

01-29-2007

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

SIR:

Petitioner, Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, a New Jersey corporation with a business address of 70 Adams Street, Store #4, Newark, New Jersey 07105, hereby petitions to cancel Registration No. 2,534,608, for the mark BOI NA BRAZA, registered January 29, 2002, and now owned by Registrant Boi Na Braza, Inc., according to the assignment records of the United States Patent & Trademark Office.

As grounds for cancellation, Petitioner asserts as follows:

1. For many years and since long prior to the filing date of Registrant's application and any date of first use on which Registrant can rely, Petitioner adopted and Petitioner and its related companies have continuously used, and not abandoned, the term BOI NA BRASA as a service mark for restaurant services.
2. Petitioner's mark BOI NA BRASA is properly translated from Portuguese to English as "Ox in embers."
3. Registration No. 2,534,608 was granted to Registrant Boi Na Braza, Inc. for the mark BOI NA BRAZA for restaurant services. The registration indicates that the mark is translated into English as "Ox in embers." That registration is now owned by Respondent Boi Na Braza, Inc.

4. Respondent's mark BOI NA BRAZA is not properly translated from Portuguese to English as "Ox in embers" because the word "Braza" exists, if at all, as a slang term for things Brazilian. Thus, Respondent's mark BOI NA BRAZA may possibly be translated as "Ox in Brazil" or perhaps "Brazilian Ox." In either case, the Brazilian connotations of the term Braza evidence a geographic commercial impression to the relevant consumer.

5. Respondent's mark BOI NA BRAZA so resembles Petitioner's previously used BOI NA BRASA as to be likely when used in connection with the services set forth in the registration, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

6. Respondent's mark BOI NA BRAZA, when properly translated from Portuguese to English and used in connection with the services set forth in the registration, is merely descriptive or deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act, primarily geographically descriptive of them within the meaning of Section 2(e) of the Trademark Act, and/or primarily geographically deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act.

The Commissioner is authorized to charge the Petition filing fee in the amount of \$300 and any other fees due to counsel's Deposit Account No. 20-0782/TSUL/002.

Wherefore, Petitioner prays that Registration No. 2,534,608 be cancelled in its entirety.

Respectfully submitted,

TERA SUL CORPORATION a/k/a  
CHURRASCARIA BOI NA BRASA

Date: 1/29/07

By EJ Wall  
Eamon J. Wall  
Attorney for Petitioner

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808