

ESTTA Tracking number: **ESTTA140592**

Filing date: **05/15/2007**

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	Habana Holdings, LLC		
Entity	Corporation	Citizenship	Delaware
Address	755-757 Fulton Street Brooklyn, NY 11217 UNITED STATES		
Attorney information	Jody N. Cappello Updike, Kelly and Spellacy, P.C. 265 Church Street One Century Tower New Haven, CT 06510 UNITED STATES jcappello@uks.com Phone:203-786-8309		

Registration Subject to Cancellation

Registration No	3055021	Registration date	01/31/2006
Registrant	Spanish Restaurants, LLC P.O. Box 2066 Winter Park, FL 32790 UNITED STATES		
Goods/Services Subject to Cancellation	Class 043. First Use: 2004/12/15 , First Use In Commerce: 2004/12/15 Goods/Services: Restaurant		

Attachments	77069054#TMSN.jpeg (1 page)(bytes) HabanaOutpost_PetitionCancel.pdf (3 pages)(18461 bytes)
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Signature	/jnc/
Name	Jody N. Cappello
Date	05/15/2007

1. Spanish Restaurants, LLC (“Registrant”) is the owner of U.S. Registration No. 3055021 for the mark “HABANA GRILL.” (“Registrant’s mark”)

2. Petitioner has used the mark “HABANA OUTPOST” (“Petitioner’s mark”) in commerce at least as early as January 1, 1998 and has the bona fide intention to continue to use Petitioner’s mark.

3. On December 21, 2006, Petitioner filed a Trademark/Service Mark Application for Petitioner’s mark, and said application was assigned Serial No. 77/069054 by the United States Patent and Trademark Office.

4. On April 23, 2007, Trademark Examining Attorney refused registration of Petitioner’s mark under Trademark Act § 2(d), on the basis that Petitioner’s mark, when used in connection with its services, so resembles the Registrant’s mark as to be likely to cause confusion, to cause mistake, or to deceive.

5. Petitioner first used Petitioner’s mark in commerce at least as early as January 1, 1998, and Petitioner’s use of Petitioner’s mark has been continuous and ongoing since said date.

6. At least as early as January 1, 1998, and continuing to the present, Petitioner’s mark has been associated with Petitioner’s services as a restaurant.

7. According to Registration No. 3055021, Registrant first used Registrant’s mark in commerce on December 15, 2004.

8. The Petitioner’s use of Petitioner’s mark in commerce was prior to Registrant’s use of Registrant’s mark in commerce.

