

ESTTA Tracking number: **ESTTA226184**

Filing date: **07/24/2008**

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	Panagiotis Goulas		
Entity	Individual	Citizenship	UNITED STATES
Address	45650 Grand River Ave Novi, MI 48374-1351 UNITED STATES		

Attorney information	Jeffrey P. Thennisch Dobrusin & Thennisch, P.C. 29 W. Lawrence Street Suite 210 Pontiac, MI 48342 UNITED STATES jeff@patentco.com, lrosenbrook@patentco.com Phone:248 292 2920		
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Registration Subject to Cancellation

Registration No	3316537	Registration date	10/23/2007
Registrant	Goulas, Thomas 29311Paramount Court Farmington Hills, MI 48331 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 1974/12/31 First Use In Commerce: 1975/09/15 All goods and services in the class are cancelled, namely: Restaurant and bar services
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	1) Registrant is not the owner of any right, title and interest to the HONEY TREE mark for use in connection with restaurant and bar services; 2) Lack of Use; and 3) Failure to Submit a Proper Specimen of Use

Attachments	07.24.2008 Petition for Cancellation.PDF (41 pages)(1633312 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey P. Thennisch/
Name	Jeffrey P. Thennisch
Date	07/24/2008

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

In the Matter of)	
Registration No.:)	3,316,537
)	
For the Mark:)	HONEY TREE
)	
Date Registered:)	October 23, 2007
)	CANCELLATION NO. _____
International Class:)	043
)	
PANAGIOTIS GOULAS.)	
)	
Petitioner,)	
v.)	
)	
THOMAS GOULAS)	
)	
Registrant.)	

PETITION FOR CANCELLATION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Petitioner, Panagiotis Goulas, is an individual citizen of the United States and a resident of the State of Michigan. Petitioner asserts that he will be damaged by the continued registration of the mark, HONEY TREE, as shown in U.S. Reg. No. 3,316,537 (hereinafter the '537 registration) for the services identified therein and hereby petitions to cancel the same.

To the best of Petitioner's knowledge, the name and address of the current owner of the Registered Mark is Thomas Goulas, an individual citizen of the United States having an address of 29311 Paramount Court, Farmington Hills, Michigan 48331 (hereinafter "Registrant").

To the best of Petitioner's knowledge, the Registered Mark was the subject matter of an application filed on February 5, 2007 under Section 1(a) of the Lanham Act, published in the *Official Gazette* on August 7, 2007 and issued on October 23, 2007.

AS GROUNDS FOR THE PETITION TO CANCEL, IT IS ALLEGED THAT:

Background And Common Factual Allegations

1. Petitioner, Panagiotis Goulas, is an individual citizen of the United States and a resident of the State of Michigan.

2. Petitioner has been damaged and continues to be damaged by the continued registration of the mark, HONEY TREE, as shown in U.S. Reg. No. 3,316,537 (hereinafter the '537 registration) for the services identified.

3. Registrant, Thomas Goulas, has filed a legal action in the E.D. Mich, Case No. 08-CV-12712 seeking damages, alleging that the Petitioner, among other defendants and parties, has violated Registrant's putative rights in the '537 registration. (See Civil Complaint attached at Exhibit A hereto)

4. To the best of Petitioner's knowledge, the name and address of the current owner of the Registered Mark is the Registrant, Thomas Goulas, an individual citizen of the United States having an address of 29311 Paramount Court Farmington Hills, Michigan 48331.

5. To the best of Petitioner's knowledge, the '537 registration was the subject matter of an application filed on February 5, 2007 under Section 1(a) of the Lanham Act, published in the *Official Gazette* on August 7, 2007 and issued on October 23, 2007.

6. Upon information and belief, the '537 registration is void ab initio and should be cancelled because the Registrant is not, and was not, the owner of the HONEY TREE mark within the meaning of TMEP 1201 et seq., and TMEP 1201.02(b) in particular.

7. Registrant, through his trademark attorney, filed the application which matured into the '537 registration on February 5, 2007 claiming sole ownership of the HONEY TREE mark as an individual and prior use of the mark allegedly dating back to December 1974.

8. On the filing date of February 5, 2007, Registrant was not the owner, or even a user, of the HONEY TREE mark in his capacity as the stated sole and individual applicant.

9. On the filing date of February 5, 2007, Registrant had full knowledge that he was not the owner of the HONEY TREE mark when he filed the application which resulted in the issuance of the '537 registration.

10. On the filing date of February 5, 2007, the HONEY TREE mark was used and/or actually owned by at least AEK Foods, Inc., a Michigan corporation that actually provides the recited restaurant and bar services under the HONEY TREE mark in commerce.

11. Upon information and belief, Registrant is at best a minority shareholder of AEK Foods, Inc. and no use of the HONEY TREE mark inures to the benefit of the Registrant, an individual, by virtue of the fact that the Registrant is, at best, a minority shareholder of AEK Foods, Inc.

12. The specimen of use submitted to the U.S. Patent & Trademark Office in the February 5, 2007 application (see Exhibit B hereto) by Registrant was that of an image of signage (the "sign") that is actually owned by AEK Foods, Inc. for a restaurant owned and operated by AEK Foods, Inc.

13. Registrant did not disclose this information regarding the existence of AEK Foods, Inc. or the use of the third party signage to the PTO when Registrant filed the application and provided a specimen of "his" putative use of the mark.

14. Upon information and belief, the Registrant filed the February 5, 2007 application for HONEY TREE mark and submitted the specimen of use of the actual AEK Foods, Inc. restaurant facility falsely claiming to be the owner of both the HONEY TREE mark and the physical restaurant signage shown in the supporting specimen of use: (1) without the knowledge or corporate authorization of AEK Foods, Inc.; (2) without disclosing the existence of AEK Foods, Inc. to the PTO any form of authority from the officers, shareholders, or board of directors of AEK Foods, Inc.; and (3) without actually providing any bar or restaurant services – in his individual capacity – in interstate commerce, at least lawfully.

15. Upon information and belief, a search of the on-line database of at least the Michigan Liquor Control Commission failed to uncover the existence of any active or escrowed liquor license(s) anywhere in at least the State of Michigan issued or owned by the named Registrant, Thomas Goulos, in his individual capacity. As such, it is believed that the Registrant has not performed or provided any of the registered bar services in commerce, at least lawfully.

16. Registrant does not individually and/or in his personal capacity own the sign that was submitted to the PTO as a specimen of use as part of the February 5, 2007 application.

17. Registrant does not individually and/or in his personal capacity own the restaurant where the sign is located.

18. Registrant, individually and/or in his personal capacity, has not used the mark Honey Tree for restaurant and/or bar services or, alternately, at least for lawful restaurant and/or bar services.

19. Registrant, individually and/or in his personal capacity, has not continued to use the mark Honey Tree for restaurant and bar services.

20. Registrant's statement to the PTO that the Honey Tree restaurant facility depicted in the photograph at Exhibit B "is a photo of the outside of a restaurant owned by the applicant" is a false statement.

21. Registrant had full knowledge that the statement "is a photo of the outside of a restaurant owned by the applicant" was a false statement when the statement was made to the PTO on February 5, 2007.

22. Upon information and belief, Registrant, as an individual, possesses a basic amount of mental competency to understand that he did not "own" the registrant depicted in the signage submitted to the PTO as the required specimen of use on February 5, 2007. However, Petitioner respectfully reserves the right to seek an order for mental examination under Fed.R.Civ.P. 35(a) in the event that Registrant's mental competency becomes an issue in this inter partes proceeding.

23. Registrant made the false statement that the proffered specimen "is a photo of the outside of a restaurant owned by the applicant" with the full intent to deceive the PTO into relying on the statement as evidencing use of the mark Honey Tree by Registrant.

24. The PTO relied on Registrant's false statement in issuing the '537 registration.

25. Had the assigned PTO personnel known the forgoing, the registration would have been refused for violation of 15 U.S.C. § 1051(a)(1) and the applicable rule, TMEP 1201.02(b).

COUNT I - CANCELLATION OF THE '537 REGISTRATION

Registrant Is Not The Owner Of Any Right, Title, And Interest To The HONEY TREE Mark For Use In Connection With Restaurant And Bar Services

26. Petitioner realleges and herein incorporates by reference the allegations set forth in the above paragraphs.

27. As supported from the above allegations, the '537 registration should be cancelled because the Registrant is not the owner of Honey Tree mark, the '537 registration is "void ab initio," and the registration was issued in violation under TMEP 1201.02(b).

COUNT II - CANCELLATION OF THE '537 REGISTRATION

Cancellation Based Upon Lack Of Use

28. Upon information and belief, if Registrant ever possessed rights in the HONEY TREE mark or designation in his individual capacity, such rights have been abandoned by Registrant's lack of use, lack on continued use, and/or lack of any control over use of the mark by others (i.e. naked licensing).

29. Petitioner realleges and herein incorporates by reference the allegations set forth in the above paragraphs.

30. As supported from the above allegations, the '537 registration is invalid and should be cancelled because the Registrant has not used the mark "HONEY TREE" in commerce, or otherwise abandoned or lost any rights that the Registrant, in his individual capacity, may have ever possessed in the HONEY TREE mark or designation through lack of use and/or naked licensing or otherwise consenting to the use of the HONEY TREE designation by others without exercising any effort to restrict or control the quality of such putative services.

COUNT III - CANCELLATION OF THE '537 REGISTRATION

Failure To Submit A Proper Specimen Of Use

31. Petitioner realleges and herein incorporates by reference the allegations set forth in the above paragraphs.

32. The '537 registration is invalid under the Lanham Act, Title 37 of the Code of Federal Regulations, and the applicable provisions of the TMEP and PTO rules because a valid specimen must be submitted to receive a registration.

33. As supported from the above allegations, Registrant did not submit a specimen of use evidencing Registrant's own personal use of the HONEY TREE mark or designation.

COUNT IV - CANCELLATION OF THE '537 REGISTRATION

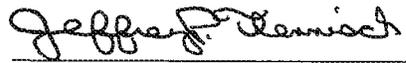
Cancellation Based Upon Fraud Before The U.S. Patent & Trademark Office

34. Petitioner realleges and herein incorporates by reference the allegations set forth in the above paragraphs.

35. As supported from the above allegations, the '537 registration for "HONEY TREE" is invalid and subject to cancellation based upon fraudulent representations made before the PTO by Registrant regarding Registrant's actual asserted use of the mark and the filed specimen of use which did not, and does not, consist of "a photo of outside of a restaurant owned by the applicant."

WHEREFORE, Petitioner respectfully prays that this Cancellation be granted and that U.S. Registration Number 3,316,537 for HONEY TREE for the services described therein be cancelled. This Petition for Cancellation is submitted with the requisite filing fee.

Respectfully submitted,



Jeffrey P. Thennisch
Dobrusin & Thennisch PC
29 W. Lawrence Street, Suite 201
Pontiac, MI 48342
Telephone: (248) 292-2920

Dated: July 24, 2008

ATTORNEYS FOR PETITIONER

Certificate of Mailing under TBMP 110

I hereby certify that a true and correct copy of:

PETITION FOR CANCELLATION

was filed electronically with the TTAB via www.uspto.gov on July 24, 2008.

* : *

Certificate of Service under TBMP 113

I hereby certify that on July 24, 2008, a true and correct copy of:

PETITION FOR CANCELLATION

is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Registrant and to the counsel for the Registrant:

Registrant:
Thomas Goulas
29311 Paramount Court
Farmington Hills, MI 48331

Counsel for Registrant:
Scott A. Decius
37000 Grand River Avenue, Suite 350
Farmington Hills, MI 48335

Respectfully submitted,

Attorneys for Petitioner

Dated: July 24, 2008

/Jeffrey P. Thennisch/
Jeffrey P. Thennisch
Dobrusin & Thennisch, PC
29 W. Lawrence St., Suite 210
Pontiac, MI 48342
(248) 292-2920

EXHIBIT A

AMENDED COMPLAINT AND JURY DEMAND

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
(SOUTHERN DIVISION)

THOMAS GOULAS,

Plaintiff,

vs.

Case No. 08-CV-12712
Hon. Sean F. Cox

PANAGIOTIS GOULAS, HONEY TREE GRILLE
OF PLYMOUTH, INC., a Michigan corporation, and
HONEY TREE OF LIVONIA, INC., a Michigan
Corporation, jointly and severally,

Defendants.

AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Thomas Goulas, by and through his undersigned attorneys, states the following as his Complaint against Defendants Panagiotis Goulas, Honey Tree Grille of Plymouth, Inc. and Honey Tree of Livonia, Inc., jointly and severally (hereinafter collectively "Defendants"):

PARTIES

1. Thomas Goulas is an individual who is a citizen of the State of Michigan. Mr. Goulas is the owner of various proprietary rights, including certain trademark rights involved in this action.
2. Upon information and belief, Honey Tree Grille Of Plymouth, Inc. ("HTG Plymouth") is a Michigan Corporation, with its main office in Plymouth, Michigan and is conducting business in this District.
3. Upon information and belief, Honey Tree Of Livonia, Inc. ("HT Livonia") is a Michigan Corporation, with its main office in Livonia, Michigan and is conducting business in this District.

4. Panagiotis Goulas is an individual who, upon information and belief, is a citizen of the State of Michigan and resides in Farmington Hills, Michigan. Upon information and belief, Panagiotis Goulas is the President and a shareholder of HGT Plymouth and HT Livonia and has aided, abetted, directed and controlled HGT Plymouth and HT Livonia with respect to the wrongful conduct alleged herein.

NATURE OF THE ACTION

5. This is a civil action for damages and injunctive relief arising under the federal laws for trademark infringement and unfair competition, and under the laws of Michigan for trademark infringement, trade name infringement, unfair competition, unjust enrichment and misappropriation, as a result of Defendants' willful infringement of Plaintiff's rights and other lawful activities conducted by Defendants in connection with such infringement.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §1121(actions arising under the Lanham Act, 15 U.S.C. §1051 et seq.), 28 U.S.C. §1331 (Federal question jurisdiction) and 28 U.S.C. §1338. It also has supplemental jurisdiction over the state law claims, pursuant to 28 U.S.C. §1367 and principles of pendant jurisdiction.
7. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because Defendants reside and conduct business in this judicial district. The unlawful acts committed by Defendants have been and are, in whole or in part, conceived, carried out and made effective within this District.

COMMON ALLEGATIONS

8. Since 1975, Plaintiff Goulas has owned and operated 23 restaurants in Southeastern Michigan, Toledo, Ohio and Las Vegas, Nevada using the trade name and mark "Honey

Tree.” (the “Honey Tree Name and Mark”)

9. Plaintiff Goulas first used the Honey Tree Name and Mark in 1975. Since then, Plaintiff Goulas has consistently used the Honey Tree Name and Mark in connection with the operation of restaurants and in licensing the Honey Tree Name and Mark to authorized licensees.
10. As a result of Plaintiff Goulas’ extensive and continuous use of the Honey Tree Name and Mark and quality of the Honey Tree’s goods and services over the course of 33 years, the Honey Tree Name and Mark have become widely known and favorably known, valuable assets of Plaintiff Goulas.
11. Plaintiff Goulas is the owner of the following trademark registrations (collectively the “Honey Tree Registrations”):
 - a. U.S. Registration No. 77099389 for “Honey Tree” for “Restaurant and bar services.” (Exhibit A); and
 - b. Michigan Registration No. M08636 “Honey Tree” (Exhibit B).

The U.S. registration for the Honey Tree Name and Mark constitutes *prima facie* evidence of Plaintiff Goulas’ trademark ownership, his exclusive right to use the respective marks throughout the United States, and the validity of the registrations and the marks. The Michigan registration for the Honey Tree Name and mark constitutes evidence of Plaintiff Goulas’ right to use the respective marks throughout the state of Michigan.

DEFENDANTS’ WRONGFUL ACTIVITIES

12. On information and belief, Defendants are also engaged in the restaurant business in Southeastern Michigan (“Defendants’ Services”).
13. On information and belief, Defendants provide Defendants’ Services from two (2) locations

located in Livonia, Michigan and in Plymouth, Michigan using the Honey Tree Name and Mark. On information and belief, Defendant Panagiotis Goulas is in the process of opening a restaurant in Rochester, Michigan using the Honey Tree Name and Mark.

14. In 2007, Plaintiff Goulas discovered that Defendants were using the Honey Tree Name and Mark in the operation of restaurants located in Livonia, Michigan and in Plymouth, Michigan.
15. Upon discovering Defendants' use of the Honey Tree Name and Mark, Plaintiff Goulas advised Defendants to cease and desist from further use of the Honey Tree Name and Mark (Exhibit C). Defendants refused and ignored Plaintiff's notice of infringement.
16. Notwithstanding Plaintiff Goulas' continuous and exclusive use of the Honey Tree Name and Mark in Southeastern Michigan, Plaintiff Goulas' prior rights in the Honey Tree Name and Mark, and Plaintiff Goulas' express notice to Defendants of such rights, Defendants have appropriated the Honey Tree Name and Mark to identify Defendants' restaurants.
17. On information and belief, Defendants' adoption and use of the Honey Tree Name and Mark for its two (2) locations (which are located in Plaintiff Goulas' main operating area) is an intentional and obvious attempt to trade on the goodwill established by Plaintiff Goulas in the Honey Tree Name and Mark.

INJURY TO PLAINTIFF

18. Defendants' unauthorized use of the Honey Tree Name and Mark has irreparably injured Plaintiff Goulas by confusing consumers, diverting sales, and diluting the distinctiveness of the Honey Tree Name and Mark. If permitted to continue, Defendants' use of the Honey Tree Name and Mark in will continue to irreparably injure Plaintiff Goulas and the Honey Tree Name and Mark, the Honey Tree Registrations, the reputation and goodwill associated

therewith, Plaintiff Goulas' reputation for exceedingly high-quality food and services, and the public interest in being free from confusion, mistake or deception.

19. Defendants' use of the Honey Tree Name and Mark has caused and will continue to cause confusion, mistake or deception as to the source or origin of Defendants' Services, and is likely to suggest falsely a sponsorship, connection, license, endorsement or association with Plaintiff Goulas, thereby injuring Plaintiff and the public.

COUNT I

Violation of 15 U.S.C. § 1114 Federal Trademark Infringement

20. Plaintiff incorporates by reference the allegations of Paragraphs 1-19 of this Complaint.
21. The unauthorized use by Defendants of the Honey Tree Name and Mark which wholly incorporates the distinctive "Honey Tree" portion of the Plaintiff's Honey Tree Name and Mark has, which is substantially identical to the Honey Tree Name and Mark has and the Honey Tree Registrations and which are used in connection with services that are substantially identical and/or compete with Plaintiff's Services is likely to cause confusion, mistake or deception and thus infringes upon Plaintiff's rights under 15 U.S.C. § 1114.
22. Upon information and belief, Defendants adopted the Honey Tree Name and Mark for its locations in Livonia and Plymouth, Michigan with full knowledge of Plaintiff's rights, the Honey Tree Name and Mark and the Honey Tree Registrations. The actions, conduct, and practices of Defendants described above have at all times relevant to this action been willful and/or knowing. Thus, Defendants willfully violated Plaintiff's rights under 15 U.S.C. § 1114.

23. As a direct and proximate result of the actions, conduct, and practices of Defendants alleged above, Plaintiff has been damaged and will continue to be damaged.

COUNT II

**Violation of 15 U.S.C. § 1125(a)
Federal Unfair Competition**

24. Plaintiff incorporates by reference the allegations of Paragraphs 1-23 of this Complaint
25. Defendants' unauthorized use in commerce of the Honey Tree Name and Mark for goods and services identical or substantially identical to those of Plaintiff, is likely to cause the public (and, upon information and belief, has actually caused the public) to mistakenly believe that Defendants' business activities and services originate from, are sponsored by or are in some way associated with Plaintiff, constitutes false designations of origin or false descriptions or representations, and is likely to cause Plaintiff's Honey Tree Name and Mark to lose its significance as an indicator of origin. The actions by Defendants are in violation of 15 U.S.C. Section 1125(a).
26. On information and belief, Defendants' appropriation of the Honey Tree Name and Mark is part of a deliberate plan to trade on the valuable goodwill established in Plaintiff's Honey Tree Name and Mark. With full knowledge Plaintiff's goodwill generated thereby, the actions of Defendants have been carried out with willful disregard of Plaintiff's rights in violation of 15 U.S.C. Section 1125(a).
27. As a direct and proximate result of the actions, conduct, and practices of Defendants alleged above, Plaintiff Goulas has been damaged and will continue to be damaged.

COUNT III

Unjust Enrichment

28. Plaintiffs incorporate by reference the allegations of Paragraphs 1-27 of this complaint.
29. Defendants are being unjustly enriched to the damage and irreparable harm of Plaintiff as a result of Defendants' unauthorized use in commerce of the Honey Tree Name and Mark for goods and services identical or substantially identical to Plaintiff.

COUNT IV

**Common Law Trademark Infringement, Trade Name Infringement,
Unfair Competition and Misappropriation**

30. Plaintiff incorporates by reference the allegations of Paragraphs 1-29 of this Complaint.
31. Defendants' adoption and use of the Honey Tree Name and Mark in connection with Defendants' operation of two (2) (and possibly soon to be three (3)) restaurants in Livonia and Plymouth, Michigan constitutes common law trademark infringement, unfair competition, and misappropriation of Plaintiff's goodwill under the trademark and unfair competition laws of Michigan.
32. Defendants' adoption and use of the Honey Tree Name and Mark in connection with the incorporation of HTG Plymouth and HT Livonia, constitutes common law trade name infringement, unfair competition, and misappropriation of Plaintiff's goodwill under the trade name and unfair competition laws of Michigan.
33. The actions, conduct, and practices of Defendants described above have at all times relevant to this action been willful and/or knowing.

COUNT V

**Violation of M.C.L.A. § 445.901
Michigan Consumer Protection Act**

34. Plaintiff incorporates by reference the allegations of Paragraphs 1-32 if this Complaint.
35. Defendants, through their above-described conduct, have engaged in unlawful, unfair and fraudulent business practices within the meaning of the Michigan Consumer Protection Act, M.C.L.A § 445.901 et seq. by causing a probability of confusion as to the source, sponsorship, approval of certification of Defendants' goods and services.

DEMAND FOR RELIEF

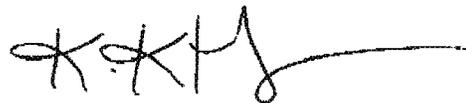
WHEREFORE, Plaintiff Goulas requests that this Court enter judgment in his favor on each and every count set forth above and issue the following order:

- A. Declaring that Plaintiff Goulas is the owner of the entire right, title and interest in and to the Honey Tree Name and Mark;
- B. Declaring that Plaintiff Goulas is the owner of the entire right, title and interest in and to the Honey Tree Registrations;
- C. Declaring that rights in the Honey Tree Name and Mark, the Honey Tree Registrations are valid, enforceable and infringed by Defendants and that Defendants have violated and are violating other relevant federal and state laws and regulations;
- D. Declaring that Defendants willfully infringed Plaintiff Goulas' rights;
- E. Requiring Defendants to pay Plaintiff Goulas such damages, statutory or otherwise, together prejudgment interest thereon, as Plaintiff Goulas has sustained as a consequence of Defendants' wrongful acts, and to account for and return to Plaintiff any monies, profits and advantages wrongfully gained by Defendants;

- F. Declaring that all damages sustained by Plaintiff Goulas be trebled;
- G. Requiring Defendants to pay Plaintiff Goulas punitive and exemplary damages;
- H. Requiring Defendants to pay Plaintiff Goulas all attorney fees, expenses and costs incurred in this action;
- I. Requiring Defendants to deliver for impoundment during the pendency of this action, and for destruction upon entry of judgment, all products, fixtures, writings, signage, artwork, and other materials that infringe Plaintiff's rights, falsely designate source or origin, or otherwise facilitate Defendants' unfair competition with Plaintiff Goulas;
- J. Requiring Defendants to file with this Court and to serve on Plaintiff's counsel, within 30 days after date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with this order;
- K. Requiring that Defendants, their agents, servants, employees, attorneys and all persons in active concert or participation with them, be preliminarily and permanently enjoined and restrained from:
 - 1. using the Honey Tree Name and Mark;
 - 2. otherwise infringing the Honey Tree Name and Mark, the Honey Tree Registrations and/or competing unfairly with Plaintiff Goulas.
- L. Granting Plaintiff Goulas such other and further relief that the Court deems just and equitable.

Respectfully Submitted,

PADILLA KOSTOPOULOS, PLLC

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

K. Dino Kostopoulos (P57071)
Attorney for Plaintiff
1821 West Maple Rd.
Birmingham, MI 48009-3322
Tel: (248) 321-3620

Dated: June 25, 2008

EXHIBIT A

The United States of America



CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



A handwritten signature in black ink, reading "Jon W. I. Dudas".

Director of the United States Patent and Trademark Office

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,316,537

Registered Oct. 23, 2007

SERVICE MARK
PRINCIPAL REGISTER

HONEY TREE

GOULAS, THOMAS (UNITED STATES INDIVIDUAL)
29311PARAMOUNT COURT
FARMINGTON HILLS, MI 48331

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: RESTAURANT AND BAR SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

SER. NO. 77-099,389, FILED 2-5-2007.

FIRST USE 12-31-1974; IN COMMERCE 9-15-1975.

LESLIE RICHARDS, EXAMINING ATTORNEY

EXHIBIT B

Department of Consumer & Industry Services

Bureau of Commercial Services - Corporation Division

TRADEMARKS & SERVICE MARKS

Report Date: 6/13/2007

REGISTRATION NO.	MARK TYPE	STATUS	CLASS	REGISTRATION DATE	RENEWAL DATE	EXPIRATION DATE
M08636		REGISTERED		13-Mar-2007		
HONEY TREE			Class	Registration	Renewal	Expiration
THOMAS GOULAS			101	13-Mar-2007		13-Mar-2017
29311 PARAMOUNT CT			0			
FARMINGTON HILLS	MI	48331	0			
M61015	TRADEMARK	EXPIRED		02-Nov-1995		
HONEY WHEAT			Class	Registration	Renewal	Expiration
INTERSTATE BRANDS CORPORATION			46	16-Apr-1942	29-Sep-1985	29-Sep-1995
12 E. ARMOUR BLVD.			0			
KANSAS CITY	MO	64141	0			
M36046	TRADEMARK	EXPIRED		03-Nov-1995		
HONEY'S KITCHEN			Class	Registration	Renewal	Expiration
LILLIAN LUNDBERG			46	26-Sep-1985		26-Sep-1995
% HONEY'S KITCHEN			0			
P.O. BOX 115			0			
HURLEY	WI	54534				
M02831	SERVICE MARK	REGISTERED		10-Aug-1998		
HONEYBEEZ			Class	Registration	Renewal	Expiration
M & G SERVICES, INC.			100	10-Aug-1998		10-Aug-2008
202 N DIBBLE BLVD			0			
LANSING	MI	4891728	0			
M62077	TRADEMARK	REGISTERED		26-May-1992		
HONEYCOMB			Class	Registration	Renewal	Expiration
J. N. BECH, LTD.			46	26-May-1992	26-May-2002	26-May-2012
214 DEXTER STREET			0			
ELK RAPIDS	MI	49629	0			
M01840	TRADEMARK	REGISTERED		17-Sep-1997		
HONEYCOMB PRODUCTS			Class	Registration	Renewal	Expiration
HONEYCOMB PRODUCTS CORPORATION			2	17-Sep-1997		17-Sep-2007
14700 S HARVARD STREET			0			
DOLTON,	IL	60419	0			
M05634	SERVICE MARK	REGISTERED		12-Aug-2003		
HONIGMAN			Class	Registration	Renewal	Expiration
HONIGMAN MILLER SCHWARTZ AND COHN LLP			101	12-Aug-2003		12-Aug-2013
2290 FIRST NATIONAL BUILDING			0			
DETROIT	MI	48226	0			
M75083	TRADEMARK	EXPIRED		23-Jun-1994		
HOOD GEAR HR			Class	Registration	Renewal	Expiration
CALVIN VENNARD BOYD, SR.			39	23-Jun-1994		23-Jun-2004
GEARING UP			0			
1529 PRINCETON AVENUE			0			
KALAMAZOO	MI	49007				

EXHIBIT C

7004 1160 0006 1517 3109

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <i>Peter Goulas/Honey Tree Grille of Plymouth</i>	
Street, Apt. No., or PO Box No. <i>45650 Grand River Ave</i>	
City, State, ZIP+4 <i>Novi MI 48374</i>	
PS Form 3800, June 2002 See Reverse for Instructions	



SMVF LAW OFFICES

SICILIANO MYCHALOWYCH VAN DUSEN AND FEUL
PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AND COUNSELORS

37000 GRAND RIVER AVENUE, SUITE 350, FARMINGTON HILLS, MICHIGAN 48335 248-442-0510 FAX 248-442-0518

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R. Ryan Burke

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Meghan W. Cassidy

Of Counsel:
Gerald E. Grimes
Frank C. Kerr

July 16, 2007

Attn: Peter Goulas
Honey Tree Grille of Plymouth, Inc.
45650 Grand River Avenue, Ste. 207
Novi, MI 48374

*VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR U.S. MAIL*

Re: Honey Tree Grille of Plymouth, Inc.
Client: Honey Tree™
File No.: 9153-1

Dear Mr. Goulas:

Please be advised that this law firm is counsel to Thomas Goulas, the registered holder of the trademark Honey Tree™. It has been brought to our attention that your business, "Honey Tree Grille of Plymouth, Inc.", has been using the trademark "Honey Tree™" in association with the marketing and/or sale of products and services in the restaurant industry. I believe that it is in our mutual interest to resolve this matter as expeditiously as possible and avoid litigation.

Honey Tree™ is a registered trademark (Michigan Trademark M08636) of Thomas Goulas (see enclosed registration). Our registration and use of this trademark provides us with certain proprietary rights. This includes the right to restrict the use of the trademark, and/or a confusingly similar trademark, in association with similar products and/or services as there is strong likelihood of confusion such that consumers will believe the products and/or services originated from the trademark owner.

Thomas Goulas has continuously been engaged in developing and advertising of the Honey Tree™ name in his restaurants throughout the State of Michigan since September 15, 1975. Pursuant to these activities Honey Tree™ has developed into a unique brand name. It is important that we exercise our client's right to protect the trademark. It serves as an important and distinctive representation of the origin of the products and services as well as the goodwill of the restaurants themselves.

Honey Tree Grille of Plymouth, Inc.
July 16, 2007
Page 2

The confusion created with respect to your use of the Honey Tree™ trademark is particularly likely to occur where your use of the trademark is in the restaurant services industry and is in the same geographic location as our client's restaurants.

State and federal law supports our position that confusingly similar trademarks may cause confusion among customers. This confusion may cause substantial harm to the trademark by facilitating the loss of the trademark's effectiveness in establishing a distinct association between it, the restaurants' products and services, and the restaurants' goodwill.

Due to these concerns, and because unauthorized use of the registered trademark, Honey Tree™ amounts to an infringement of our trademark rights, we request that you immediately CEASE & DESIST in any further use of the trademark Honey Tree™ in association with the marketing, sale, distribution, and/or identification of any and all of your products and/or services. Additionally, the fact that the Michigan Department of Consumer and Industry Services allowed you to register the corporate name "Honey Tree Grille of Plymouth, Inc.", is not a defense to the unauthorized use of our client's trademark so as to create a likelihood of confusion as we have set forth above.

We are contemplating litigation unless we receive an immediate cease and desist letter from you or your attorneys either by fax or mail. It is imperative that you contact my office within ten (10) days of receipt of this letter. Failure to do so will be indicative of your intent to violate our trademark rights which will affect the marketing of the Honey Tree™ name and furthermore, violate Michigan statutes which prevent usage of a registered trademark without specific license or authority.

Please sign and return the enclosed copy of this letter to warrant that you will refrain from any use of the trademark Honey Tree™ in the future. Be advised that any response which provides less than a voluntary response that you will cease and desist from using the Honey Tree™ trademark shall be deemed insufficient and shall be interpreted to mean that you intend to continue to use the trademark in violation of the law and our rights.

Again, please respond and indicate your intention to cease and desist from the use of the trademark Honey Tree™, and/or any confusingly similar trademark, within ten (10) calendar days. Unless you comply with the foregoing demands, we will take appropriate steps to enforce our rights. We will provide no further notice to you of our intent to seek all available remedies against you on our client's behalf.

The foregoing is not intended as a waiver or compromise of any of our rights or claims, all of which are expressly reserved. However, if you have questions regarding this matter please contact the undersigned as soon as practicable.

Honey Tree Grille of Plymouth, Inc.
July 16, 2007
Page 3

Very truly yours,

SICILIANO MYCHALOWYCH
VAN DUSEN & FEUL, PLC,


Raymond Feul

Cc: Thomas Goulas

RECEIVED AND ACKNOWLEDGED TO CEASE AND
DESIST IN ACCORDANCE WITH TERMS OF THIS LETTER.

By: _____

Its: _____

Dated: _____, 2007

Department of Consumer & Industry Services

Bureau of Commercial Services - Corporation Division

TRADEMARKS & SERVICE MARKS

Report Date: 6/13/2007

Registration No.	Trademark/Service Mark	Status	Class	Registration Date	Renewal Date	Expiration Date
M09636	HONEY TREE	REGISTERED	101	13-Mar-2007		13-Mar-2017
	THOMAS GOULAS		0			
	29311 PARAMOUNT CT		0			
	FARMINGTON HILLS MI 48331					
M61015	HONEY WHEAT	EXPIRED	46	16-Apr-1942	29-Sep-1985	29-Sep-1995
	INTERSTATE BRANDS CORPORATION		0			
	12 E. ARMOUR BLVD.		0			
	KANSAS CITY MO 64141					
M36046	HONEY'S KITCHEN	EXPIRED	46	26-Sep-1985		26-Sep-1995
	LILLIAN LUNDBERG		0			
	% HONEY'S KITCHEN		0			
	P.O. BOX 115					
	HURLEY WI 54534					
M02831	HONEYBEEZ	REGISTERED	100	10-Aug-1998		10-Aug-2008
	M & G SERVICES, INC.		0			
	202 N DIBBLE BLVD		0			
	LANSING MI 4891728					
M62077	HONEYCOMB	REGISTERED	46	26-May-1992	26-May-2002	26-May-2012
	J. N. BECH, LTD.		0			
	214 DEXTER STREET		0			
	ELK RAPIDS MI 49629					
M01840	HONEYCOMB PRODUCTS	REGISTERED	2	17-Sep-1997		17-Sep-2007
	HONEYCOMB PRODUCTS CORPORATION		0			
	14700 S HARVARD STREET		0			
	DOLTON IL 60419					
M05634	HONIGMAN	REGISTERED	101	12-Aug-2003		12-Aug-2013
	HONIGMAN MILLER SCHWARTZ AND COHN LLP		0			
	2290 FIRST NATIONAL BUILDING		0			
	DETROIT MI 48226					
M75083	HOOD GEAR HR	EXPIRED	39	23-Jun-1994		23-Jun-2004
	CALVIN VENNARD BOYD, SR.		0			
	GEARING UP		0			
	1529 PRINCETON AVENUE					
	KALAMAZOO MI 49007					

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,316,537

Registered Oct. 23, 2007

SERVICE MARK
PRINCIPAL REGISTER

HONEY TREE

GOULAS, THOMAS (UNITED STATES INDIVIDUAL)
29311PARAMOUNT COURT
FARMINGTON HILLS, MI 48331

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: RESTAURANT AND BAR SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

SER. NO. 77-099,389, FILED 2-5-2007.

FIRST USE 12-31-1974; IN COMMERCE 9-15-1975.

LESLIE RICHARDS, EXAMINING ATTORNEY

EXHIBIT B

**TRADEMARK/SERVICE MARK APPLICATION, PRINCIPAL REGISTER
SERIAL NUMBER 77099389
FILING DATE: 02/05/2007**

Trademark/Service Mark Application, Principal Register

Serial Number: 77099389

Filing Date: 02/05/2007

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77099389
MARK INFORMATION	
*MARK	HONEY TREE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	HONEY TREE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
APPLICANT INFORMATION	
*OWNER OF MARK	Goulas, Thomas
*STREET	29311 Paramount Court
*CITY	Farmington Hills
*STATE (Required for U.S. applicants)	Michigan
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	48331
PHONE	248-755-1299
LEGAL ENTITY INFORMATION	
TYPE	INDIVIDUAL
COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	043
FIRST USE ANYWHERE DATE	At least as early as 12/31/1974
FIRST USE IN COMMERCE DATE	At least as early as 09/15/1975
DESCRIPTION	Restaurant and bar services
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1974
FIRST USE IN COMMERCE DATE	At least as early as 09/15/1975
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT12\770\993\77099389\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	Attached is a photo of the outside of a restaurant owned by the applicant.
ATTORNEY INFORMATION	
NAME	Scott A. Decius
ATTORNEY DOCKET NUMBER	9153-2
STREET	37000 Grand River Ave.
INTERNAL ADDRESS	Suite 350

CITY	Farmington Hills
STATE	Michigan
COUNTRY	United States
ZIP/POSTAL CODE	48335
PHONE	248-442-0510
FAX	248-442-0518
EMAIL ADDRESS	sdecius@smvf-law.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
NAME	Scott A. Decius
STREET	37000 Grand River Ave.
INTERNAL ADDRESS	Suite 350
CITY	Farmington Hills
STATE	Michigan
COUNTRY	United States
ZIP/POSTAL CODE	48335
PHONE	248-442-0510
FAX	248-442-0518
EMAIL ADDRESS	sdecius@smvf-law.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/Scott A. Decius/
SIGNATORY'S NAME	Scott A. Decius
SIGNATORY'S POSITION	Attorney
DATE SIGNED	02/05/2007
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Feb 05 15:46:00 EST 2007
TEAS STAMP	USPTO/BAS-134.215.210.117 -20070205154600351032-770 99389-3604bcbe2372e73342f 56348a5b632ddf10-CC-198-2 0070205152300101943

Trademark/Service Mark Application, Principal Register

Serial Number: 77099389

Filing Date: 02/05/2007

To the Commissioner for Trademarks:

MARK: HONEY TREE (Standard Characters, see mark)

The literal element of the mark consists of HONEY TREE. The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Thomas Goulas, a citizen of United States, having an address of 29311Paramount Court, Farmington Hills, Michigan, United States, 48331, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 043: Restaurant and bar services

If the applicant is filing under Section 1(b), intent to use, the applicant declares that it has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(b), as amended.

If the applicant is filing under Section 1(a), actual use in commerce, the applicant declares that it is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

If the applicant is filing under Section 44(d), priority based on foreign application, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on a specified foreign application(s). 15 U.S.C. Section 1126(d), as amended.

If the applicant is filing under Section 44(e), foreign registration, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and submits a copy of the supporting foreign registration(s), and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

The applicant hereby appoints Scott A. Decius, Suite 350, 37000 Grand River Ave., Farmington Hills, Michigan, United States, 48335 to submit this application on behalf of the applicant. The attorney docket/reference number is 9153-2.

Correspondence Information: Scott A. Decius

Suite 350
37000 Grand River Ave.
Farmington Hills, Michigan 48335
248-442-0510(phone)
248-442-0518(fax)
sdecius@smvf-law.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Scott A. Decius/ Date Signed: 02/05/2007

Signatory's Name: Scott A. Decius

Signatory's Position: Attorney

RAM Sale Number: 198

RAM Accounting Date: 02/06/2007

Serial Number: 77099389

Internet Transmission Date: Mon Feb 05 15:46:00 EST 2007

TEAS Stamp: USPTO/BAS-134.215.210.117-20070205154600

351032-77099389-3604bcbe2372e73342f56348

a5b632ddf10-CC-198-20070205152300101943

HONEY TREE

HONEY TREE

Grille

RESERVED
PARKING

ONLY

HONEY TREE



HONEY TREE

Grille

RESERVED
PARKING

ONLY

BREAKFAST