

ESTTA Tracking number: **ESTTA378772**

Filing date: **11/16/2010**

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

Proceeding	92053103
Party	Defendant Makka Halal Meat & Food Mart, Inc.
Correspondence Address	MAKKA HALAL MEAT & FOOD MART, INC. 431 N. INDIAN CREEK DRIVE, SUITES C & D CLARKSTON, GA 30021 UNITED STATES
Submission	Answer and Counterclaim
Filer's Name	Barry E. Kaplan
Filer's e-mail	bkaplan@woodcock.com, trademarks@woodcock.com
Signature	/Barry E. Kaplan/
Date	11/16/2010
Attachments	Makka Halal Answer & Counterclaim.pdf (5 pages)(101767 bytes)

Registration Subject to the filing

Registration No	3239488	Registration date	05/08/2007
Registrant	Global Commodities, Inc. 122 New South Road Hicksville, NY 11801 UNITED STATES		

Goods/Services Subject to the filing

Class 030. First Use: 1997/12/31 First Use In Commerce: 1997/12/31 All goods and services in the class are requested, namely: Rice

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

Global Commodities, Inc.,

Petitioner,

v.

Makka Halal Meat & Food Mart, Inc.

Respondent.

Cancellation Proceeding No.
92053103

ANSWER AND COUNTERCLAIM

COMES NOW the Respondent, Makka Halal Meat & Food Mart, Inc. (“Makka Halal”), by and through its undersigned counsel, and hereby files its Answer to the Petition for Cancellation filed by Global Commodities, Inc. (“Global Commodities”) on October 5, 2010 in the above-styled matter. On the grounds stated hereinbelow, Respondent Makka Halal further petitions in counterclaim for cancellation of Global Commodities, Inc.’s Registration Number 3,239,488.

ANSWER

For its Answer to the Petition, Makka Halal states as follows:

1. Makka Halal is presently without sufficient information to admit or deny the allegations contained in Paragraph 1 of the Petition; accordingly, all allegations contained in Paragraph 1 are hereby denied.

2. Makka Halal admits that Petitioner has obtained U.S. Trademark Registration Number 3,239,488 for the subject matter contained in said Registration. Makka Halal admits that Petitioner has filed Application Serial Number 85/139,440 for the subject matter

contained in said Application. All other allegations contained within Paragraph 2 of the Petition are hereby denied.

3. Makka Halal denies the allegations of Paragraph 3 of the Petition.

4. Makka Halal admits the allegations contained in Paragraph 4 of the Petition.

5. Makka Halal is presently without sufficient information to admit or deny the allegations contained in Paragraph 5 of the Petition; accordingly, all allegations contained in Paragraph 5 are hereby denied.

6. Makka Halal is presently without sufficient information to admit or deny the allegations contained in Paragraph 6 of the Petition; accordingly, all allegations contained in Paragraph 6 are hereby denied.

7. Any allegations contained in the Petition for Cancellation that have not hereinabove been specifically admitted or denied are hereby denied.

COUNTERCLAIM FOR CANCELLATION

For its Counterclaim for Cancellation, Makka Halal states as follows:

1. Makka Halal Meat & Food Mart, Inc. believes that it is the senior applicant, senior registrant, and senior user of its mark represented by its Registration Number 3,005,517.

2. Makka Halal believes that it will be damaged by Global Commodities's continued registration of the mark represented by Registration Number 3,239,488.

3. Makka Halal has, for many years, and since at least approximately July 27, 1999, adopted and continuously used the mark represented by its Registration Number 3,005,517 in connection with the goods specified in said Registration. Makka Halal

continues said use of the mark to the present in connection with at least the goods specified in said Registration. Makka Halal has actual priority over Global Commodities' alleged dates of first use.

4. Makka Halal will be damaged by the continued existence of Global Commodities's Registration Number 3,239,488 for use in connection with the goods specified in said Registration.

5. Makka Halal has expended considerable effort and expense in promoting its mark, and the goods sold under such mark, with the result that the mark has acquired extensive good will, and the purchasing public has come to know, rely upon, and recognize the products of Makka Halal by its use of such mark. Makka Halal has exceedingly valuable goodwill established in its mark.

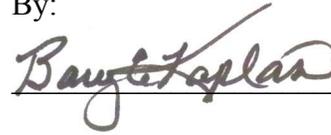
6. The mark represented by Global Commodities's Registration Number 3,239,488, when applied to the goods, so resembles Makka Halal's mark represented by its Registration Number 3,005,517 as to cause confusion, mistake, and to deceive. Purchasers are likely to consider the goods of Global Commodities sold under the mark as emanating from Makka Halal, and are likely to purchase such goods as those of Makka Halal, all to the detriment of Makka Halal.

WHEREFORE, Respondent, Makka Halal Meat & Food Mart, Inc., respectfully prays that the petition for cancellation of Makka Halal Meat & Food Mart, Inc.'s Registration Number 3,005,517 be denied; and that Global Commodities, Inc.'s Registration Number 3,239,488 be cancelled pursuant to 15 U.S.C. § 1064.

Respectfully submitted, this 16th day of November, 2010.

MAKKA HALAL MEAT & FOOD
MART, INC.

By:

A handwritten signature in cursive script, reading "Barry E. Kaplan", is written over a horizontal line.

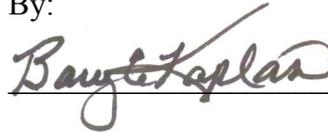
Barry E. Kaplan
Woodcock Washburn, LLP
2929 Arch Street Cira Centre
12th Floor
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404-256-6690

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November, 2010, a true copy of the foregoing Respondent's Answer and Counterclaim was served by first-class mail, postage prepaid, upon counsel for Petitioner:

Trudie Katz Walker, Esq.
255 Old Country Road
Melville, New York 11747

By:

A handwritten signature in cursive script, reading "Barry E. Kaplan", written over a horizontal line.

Barry E. Kaplan
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