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Filing date: **11/12/2010**

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	Food Services, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	West 78th Street Cabriole Center 9531 Eden Prairie, MN 55344 UNITED STATES		

Attorney information	Andrew S. Ehard MERCHANT & GOULD P.C. P.O. Box 2910 Minneapolis, MN 55402 UNITED STATES soslick@merchantgould.com, dockmpls@merchantgould.com Phone:612-332-5300
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Registrations Subject to Cancellation

Registration No	1116204	Registration date	04/03/1979
International Registration No.	NONE	International Registration Date	NONE
Registrant	JUICY LUCY'S, INC. 1938 HILL AVENUE FORT MYERS, FL 33901 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. All goods and services in the class are cancelled, namely: SNACKBAR, CAFETERIA, AND RESTAURANT SERVICES

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	1658596	Registration date	09/24/1991
Registrant	Juicy Lucy's, Inc. 16343 South Tamiami Trail Fort Myers, FL 33908 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 1988/11/26 First Use In Commerce: 1988/11/26 All goods and services in the class are cancelled, namely: restaurant services
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Grounds for Cancellation

Abandonment		Trademark Act section 14	
Registration No	1668878	Registration date	12/17/1991
Registrant	HDOS ENTERPRISES 5601 PALMER WAY CARLSBAD, CA 92008 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 1988/11/26 First Use In Commerce: 1988/11/26
All goods and services in the class are cancelled, namely: restaurant services

Grounds for Cancellation

Abandonment		Trademark Act section 14	
Registration No	3012961	Registration date	11/08/2005
Registrant	JUICY LUCY ACQUISITIONS, LLC 300 INTERNATIONAL PKWY, #100 HEATHROW, FL 32746 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2003/01/28 First Use In Commerce: 2003/01/28
All goods and services in the class are cancelled, namely: Restaurant services and restaurant take-out services

Grounds for Cancellation

Abandonment		Trademark Act section 14	
Registration No	3012962	Registration date	11/08/2005
Registrant	JUICY LUCY ACQUISITIONS, LLC 300 INTERNATIONAL PKWY, #100 HEATHROW, FL 32746 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 1992/09/09 First Use In Commerce: 1992/09/09
All goods and services in the class are cancelled, namely: restaurant services and take-out restaurant services

Grounds for Cancellation

Abandonment		Trademark Act section 14	
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Attachments	2010 11 12 Petition for Cancellation.PDF (5 pages)(146008 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	/Scott M. Oslick/
Name	Scott M. Oslick
Date	11/12/2010

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

_____)	
Food Services, Inc.,)	Cancellation No. _____
)	
Petitioner,)	Marks: JUICY LUCY, JUICY LUCY'S and
)	Design, JUICY LUCY'S, JUICY LUCY'S
v.)	and Design, and JUICY LUCY'S DRIVE-
)	THRU and Design
)	
Juicy Lucy Acquisitions, LLC,)	Registration Nos. 1,116,204, 1,658,596, 1,668,878,
)	3,012,961, and 3,012,962
Registrant.)	
_____)	

PETITION FOR CANCELLATION

Food Services, Inc., a Minnesota corporation, having its principal place of business at Cabriole Center 9531, West 78th Street, Eden Prairie, Minnesota 55344, believes that it is or will be damaged by the continued existence of the following registrations: Registration No. 1,116,204, for the mark JUICY LUCY; Registration No. 1,658,596, for the mark JUICY LUCY'S and Design; Registration No. 1,668,878, for the mark JUICY LUCY'S; Registration No. 3,012,961, for the mark JUICY LUCY'S and Design; and Registration No. 3,012,962, for the mark JUICY LUCY'S DRIVE-THRU and Design (hereinafter collectively referred to as the "JUICY LUCY Marks"), and hereby petitions for cancellation of said registrations.

The grounds for cancellation are as follows:

1. Upon information and belief, the Registrant, Juicy Lucy Acquisitions, LLC, is the owner of Registration No. 1,116,204, for the mark JUICY LUCY; Registration No. 1,658,596, for the mark JUICY LUCY'S and Design; Registration No. 1,668,878, for the mark JUICY

LUCY'S; Registration No. 3,012,961, for the mark JUICY LUCY'S and Design; and Registration No. 3,012,962, for the mark JUICY LUCY'S DRIVE-THRU and Design.

2. Petitioner, Food Services, Inc. owns the mark HOME OF THE JUICY LUCY for use in connection with "restaurant services," in International Class 43.

3. Petitioner seeks to obtain a federal trademark registration for its HOME OF THE JUICY LUCY mark for the aforesaid services.

4. Petitioner, in pursuit of said federal registration, owns U.S. Trademark Application Serial No. 77/867,281, filed November 6, 2009, for the mark HOME OF THE JUICY LUCY, for the aforesaid services, based on Petitioner's use of the mark since at least as early as 1996.

5. On February 19, 2010, the United States Patent and Trademark Office ("the Trademark Office") issued an Office Action refusing registration of Petitioner's aforesaid trademark application under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), based on an alleged likelihood of confusion between Petitioner's mark and Registrant's aforesaid JUICY LUCY Marks in Registration Nos. 1,116,204, 1,658,596, 1,668,878, 3,012,961 and 3,012,962.

6. Upon information and belief, Registrant has ceased use of the JUICY LUCY Marks, and has no intention to resume use of said marks.

7. Upon information and belief, Registrant has abandoned its JUICY LUCY Marks by not using and having no intent to use said mark for these goods.

8. Petitioner will be damaged by the continuance Registration Nos. 1,116,204, 1,658,596, 1,668,878, 3,012,961 and 3,012,962, in that Petitioner's registration of the mark

HOME OF THE JUICY LUCY may likely be precluded by the continued registration of said abandoned marks of Registrant.

9. Continued registration of the marks shown in Registration Nos. 1,116,204, 1,658,596, 1,668,878, 3,012,961 and 3,012,962 will result in damage to Petitioner under the abandonment doctrine as defined in Section 45 of the Lanham Act, 15 U.S.C. § 1127, pursuant to the allegations stated above.

WHEREFORE, Petitioner prays that Registration Nos. 1,116,204, 1,658,596, 1,668,878, 3,012,961 and 3,012,962 be cancelled under Section 18 of the Lanham Act, 15 U.S.C. § 1068 and that this Petition for Cancellation be sustained in favor of Petitioner.

Please direct all correspondence to:

Andrew S. Ehard
Scott M. Oslick
MERCHANT & GOULD P.C.
PO Box 2910
Minneapolis, MN 55402-9944

The Petitioner herein appoints Andrew S. Ehard; Scott M. Oslick; Scott W. Johnston, Reg. No. 39,721; John A. Clifford, Reg. No. 30,247; Christopher J. Schulte; Danielle I. Mattessich; Gregory C. Golla; Brent E. Routman and all other attorneys of Merchant & Gould P.C., its attorneys to transact all business in the U.S. Patent and Trademark Office related to this matter with full power of substitution.

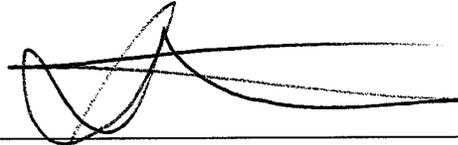
Accompanying the duplicate signed copies of this Petition for Cancellation of the five aforesaid registrations is the required fee of \$1,500.00. Please charge any excess fees or credit any overpayment to the Deposit Account No. 13-2725 of Petitioner's counsel noted below.

FOOD SERVICES, INC.

By its attorneys,

Date

11/12/10



Andrew S. Ehard
Scott M. Oslick
MERCHANT & GOULD P.C.
80 South Eighth Street, Suite 3200
Minneapolis, Minnesota 55402-2215
Telephone: (612) 332-5300

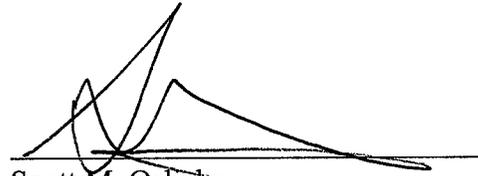
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION FOR CANCELLATION was served upon Registrant (Last Listed Owner of Registrations) by first class U.S. mail, postage prepaid, this 12th day of November, 2010:

Juicy Lucy Acquisitions, LLC
300 International Parkway
#100
Heathrow, Florida 32746

With a copy to:

Christopher Swartz
1116 Arsenal Street
Watertown, New York 13601



Scott M. Oslick