

ESTTA Tracking number: **ESTTA384422**

Filing date: **12/17/2010**

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	Safeway Inc.		
Entity	Corporation	Citizenship	Delaware
Address	5918 Stoneridge Mall Road Pleasanton, CA 94588 UNITED STATES		

Attorney information	Jordan S. Weinstein Oblon, Spivak, McClelland, Maier & Neustadt, LLP 1940 Duke Street Alexandria, VA 22314 UNITED STATES tmdocket@oblon.com Phone:703-413-3000		
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Registration Subject to Cancellation

Registration No	3488805	Registration date	08/19/2008
International Registration No.	NONE	International Registration Date	NONE
Registrant	Sara Lee/DE N.V. Vleutensevaart 100 NL-3532 AD Utrecht NETHERLANDS		

Goods/Services Subject to Cancellation

<p>Class 029. All goods and services in the class are cancelled, namely: Milk and milk beverages, namely, milk beverages with high milk content, Milk based beverages containing fruit juice, Milk beverages containing fruits, Milk drinks containing fruits, Milk-based beverage containing coffee, soya milk, soybean milk</p>
<p>Class 030. All goods and services in the class are cancelled, namely: Coffee, also coffee in filter packing, coffee-based beverages; coffee and coffee-based beverages containing milk, milk powder, coffee substitutes, cocoa, chocolate, cereals, fruits, sugar, herbs or spices or a combination of these products; coffee-extracts, namely, coffee in powder, granulated, or liquid form, instant coffee, coffee substitutes; tea, tea-based beverages, namely beverages made of tea, leaf tea, herbal tea, tea-extracts, instant tea, tea-substitutes; tea for infusions, infusions, namely, tea for infusions, herbal infusions; cocoa, cocoa-based beverages, chocolate and chocolate extracts in powder, granulated or liquid form; and sugar</p>

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3412024	Application Date	04/25/2005
Registration Date	04/15/2008	Foreign Priority Date	NONE
Word Mark	S		
Design Mark			
Description of Mark	The mark consists of a red square with rounded corners containing a stylized white letter "S".		
Goods/Services	Class 035. First use: First Use: 2005/04/18 First Use In Commerce: 2005/04/18 Retail grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline		
U.S. Registration No.	3352859	Application Date	02/09/2005
Registration Date	12/11/2007	Foreign Priority Date	NONE
Word Mark	S SAFEWAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/04/25 First Use In Commerce: 2005/04/25 Retail grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline; retail store services featuring a full line of groceries, prepared foods, drugstore and supermarket products, namely, weight loss shakes, advance nutrition supplement shakes, teeth whitening gel, teeth whitening strips, tooth brushes, mouth wash, antiseptic mouthwash, denture cleanser, denture cleanser tabs, dental floss, breath strips, hair detangler, shampoo, cream rinse, bath soap, antibacterial soap, liquid hand soap, hand sanitizer, hand moisturizers, mesh bath poof, acne wash, acne treatment cream, facial cleansing cloths, cleansing nose strips, makeup		

	<p>remover, facial cream cleanser, moisturizing skin lotions, lip balms, cotton balls, cosmetic puffs, cotton swabs, cotton rounds, cotton squares, sun block, children's sun block, aloe vera gel, suntan lotions, sunless tanning sprays, razor blades, razor blade cartridges for men and women, shaving creams and gels for men and women, nail polish remover, dietary supplements, vitamins, multivitamins for men and women, children's chewable vitamins, children's multivitamins, aspirin, children's aspirin, junior aspirin, liquid aspirin for babies, ibuprofen, children's ibuprofen, infant ibuprofen, pain relievers, non-aspirin pain relievers (all in liquid, gel cap and/or tab forms), menstrual cramp pain reliever, chewable non-aspirin pain relievers, sleep aids, stay awake stimulant tabs, nicotine patches, heat packs, cold packs, cold and cough medications (liquid, gel cap and tab forms), cough syrups, night time cough syrups, daytime/ nighttime cold medicine, decongestants, day/night flu medicine (liquid, gel caps and tab forms), severe cold and flu caps, suphedrin cold and flu, allergy relieve tabs and gel caps, antihistamine relief, sore throat liquids, nasal sprays, cough drops, sore throat sprays, thermometers, antacid tabs and liquids, gas relief gel caps, acid reducers, stomach relief liquids, laxatives, ready to use enemas, anti-diarrhea caps, fiber laxatives, milk of magnesia, mineral oil, dairy digestives, hemorrhoid pads and ointments, eye drops, saline solution, messaging gels, antifungal foot creams, alcohol swabs, hydrogen peroxide, iodine, isopropyl alcohol, rubbing alcohol, witch hazel, anti itch cream, hydrocortisone cream, lice treatment shampoo, antibiotic ointments and creams, adhesive tape, adhesive bandages, liquid bandages, petroleum jelly, bladder control pads, bladder control briefs, bladder control guards, tampons, maxi pads, mini pads, panty liners, miconazole, ovulation test kit, pregnancy test kit, lubricating jelly, personal lubricating liquid, electrolyte replenisher, pediatric electrolyte drinks, powdered infant/baby formula, liquid infant/baby formula, infant/baby disposable diapers, training pants for boys and girls, baby wipes, medicated baby wipes, baby bath, baby lotion, baby oil, baby powder, baby shampoo/conditioner, baby wash, diaper rash ointment, diaper rash creams, disposable baby bottle liners, pantyhose, trouser socks, knee high pantyhose, support hose, women's athletic socks, men's athletic socks, boy's and girls socks, lancets blood glucose, glucose monitor, glucose test kit</p>
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Attachments	<p>76978775#TMSN.jpeg (1 page)(bytes) 76630831#TMSN.jpeg (1 page)(bytes) 371289US-Pet to Cancel.pdf (19 pages)(664382 bytes)</p>
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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	/jsw/
Name	Jordan S. Weinstein
Date	12/17/2010

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

SAFEWAY INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	Registration No. 3,488,805
SARA LEE/DE N.V.,)	
)	
Respondent.)	
)	

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

PETITION FOR CANCELLATION

SAFEWAY INC. (“Petitioner”), a corporation organized under the laws of Delaware, located at 5918 Stoneridge Mall Road, Pleasanton, California 94588, believes that it is or will be damaged by the continued registration of the mark identified above and hereby petitions to cancel the registration.

As grounds for this Petition, Petitioner Safeway Inc. alleges:

1. Petitioner, SAFEWAY INC., is a corporation duly organized and existing under the laws of Delaware, having its principal offices at 5918 Stoneridge Mall Road, Pleasanton, California 94588.

2. Prior to Respondent’s filing date, Petitioner engaged and is now engaged in the manufacture, distribution, sale, advertising, and promotion in interstate commerce of retail

grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline; a full line of groceries, prepared foods, drugstore and supermarket products, namely, weight loss shakes, advance nutrition supplement shakes, teeth whitening gel, teeth whitening strips, tooth brushes, mouth wash, antiseptic mouthwash, denture cleanser, denture cleanser tabs, dental floss, breath strips, hair detangler, shampoo, cream rinse, bath soap, antibacterial soap, liquid hand soap, hand sanitizer, hand moisturizers, mesh bath poof, acne wash, acne treatment cream, facial cleansing cloths, cleansing nose strips, makeup remover, facial cream cleanser, moisturizing skin lotions, lip balms, cotton balls, cosmetic puffs, cotton swabs, cotton rounds, cotton squares, sun block, children's sun block, aloe vera gel, suntan lotions, sunless tanning sprays, razor blades, razor blade cartridges for men and women, shaving creams and gels for men and women, nail polish remover, dietary supplements, vitamins, multivitamins for men and women, children's chewable vitamins, children's multivitamins, aspirin, children's aspirin, junior aspirin, liquid aspirin for babies, ibuprofen, children's ibuprofen, infant ibuprofen, pain relievers, non-aspirin pain relievers (all in liquid, gel cap and/or tab forms), menstrual cramp pain reliever, chewable non-aspirin pain relievers, sleep aids, stay awake stimulant tabs, nicotine patches, heat packs, cold packs, cold and cough medications (liquid, gel cap and tab forms), cough syrups, night time cough syrups, daytime/nighttime cold medicine, decongestants, day/night flu medicine (liquid, gel caps and tab forms), severe cold and flu caps, suphedrin cold and flu, allergy relieve tabs and gel caps, antihistamine relief, sore throat liquids, nasal sprays, cough drops, sore throat sprays, thermometers, antacid tabs and liquids, gas relief gel caps, acid reducers, stomach relief liquids, laxatives, ready to use enemas, anti-diarrhea caps, fiber laxatives, milk of magnesia, mineral oil, dairy digestives, hemorrhoid pads and ointments, eye drops, saline solution, messaging gels, antifungal foot creams, alcohol swabs,

hydrogen peroxide, iodine, isopropyl alcohol, rubbing alcohol, witch hazel, anti itch cream, hydrocortisone cream, lice treatment shampoo, antibiotic ointments and creams, adhesive tape, adhesive bandages, liquid bandages, petroleum jelly, bladder control pads, bladder control briefs, bladder control guards, tampons, maxi pads, mini pads, panty liners, miconazole, ovulation test kit, pregnancy test kit, lubricating jelly, personal lubricating liquid, electrolyte replenisher, pediatric electrolyte drinks, powdered infant/baby formula, liquid infant/baby formula, infant/baby disposable diapers, training pants for boys and girls, baby wipes, medicated baby wipes, baby bath, baby lotion, baby oil, baby powder, baby shampoo/conditioner, baby wash, diaper rash ointment, diaper rash creams, disposable baby bottle liners, pantyhose, trouser socks, knee high pantyhose, support hose, women's athletic socks, men's athletic socks, boy's and girls socks, lancets blood glucose, glucose monitor, and glucose test kits.

3. Prior to Respondent's filing date, Petitioner used, and is now using Petitioner's S Logo marks (hereinafter sometimes referred to as "Petitioner's Marks") in connection with retail grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline; a full line of groceries, prepared foods, drugstore and supermarket products, namely, weight loss shakes, advance nutrition supplement shakes, teeth whitening gel, teeth whitening strips, tooth brushes, mouth wash, antiseptic mouthwash, denture cleanser, denture cleanser tabs, dental floss, breath strips, hair de-tangler, shampoo, cream rinse, bath soap, antibacterial soap, liquid hand soap, hand sanitizer, hand moisturizers, mesh bath poof, acne wash, acne treatment cream, facial cleansing cloths, cleansing nose strips, makeup remover, facial cream cleanser, moisturizing skin lotions, lip balms, cotton balls, cosmetic puffs, cotton swabs, cotton rounds, cotton squares, sun block, children's sun block, aloe vera gel, suntan lotions, sunless tanning sprays, razor blades, razor blade cartridges for men and women, shaving

creams and gels for men and women, nail polish remover, dietary supplements, vitamins, multivitamins for men and women, children's chewable vitamins, children's multivitamins, aspirin, children's aspirin, junior aspirin, liquid aspirin for babies, ibuprofen, children's ibuprofen, infant ibuprofen, pain relievers, non-aspirin pain relievers (all in liquid, gel cap and/or tab forms), menstrual cramp pain reliever, chewable non-aspirin pain relievers, sleep aids, stay awake stimulant tabs, nicotine patches, heat packs, cold packs, cold and cough medications (liquid, gel cap and tab forms), cough syrups, night time cough syrups, daytime/nighttime cold medicine, decongestants, day/night flu medicine (liquid, gel caps and tab forms), severe cold and flu caps, suphedrin cold and flu, allergy relieve tabs and gel caps, antihistamine relief, sore throat liquids, nasal sprays, cough drops, sore throat sprays, thermometers, antacid tabs and liquids, gas relief gel caps, acid reducers, stomach relief liquids, laxatives, ready to use enemas, anti-diarrhea caps, fiber laxatives, milk of magnesia, mineral oil, dairy digestives, hemorrhoid pads and ointments, eye drops, saline solution, messaging gels, antifungal foot creams, alcohol swabs, hydrogen peroxide, iodine, isopropyl alcohol, rubbing alcohol, witch hazel, anti itch cream, hydrocortisone cream, lice treatment shampoo, antibiotic ointments and creams, adhesive tape, adhesive bandages, liquid bandages, petroleum jelly, bladder control pads, bladder control briefs, bladder control guards, tampons, maxi pads, mini pads, panty liners, miconazole, ovulation test kit, pregnancy test kit, lubricating jelly, personal lubricating liquid, electrolyte replenisher, pediatric electrolyte drinks, powdered infant/baby formula, liquid infant/baby formula, infant/baby disposable diapers, training pants for boys and girls, baby wipes, medicated baby wipes, baby bath, baby lotion, baby oil, baby powder, baby shampoo/conditioner, baby wash, diaper rash ointment, diaper rash creams, disposable baby bottle liners, pantyhose, trouser socks, knee high pantyhose, support hose, women's athletic socks, men's athletic socks, boy's and girls

socks, lancets blood glucose, glucose monitor, and glucose test kits are distributed and sold by Petitioner in commerce.

4. Petitioner is the owner of, and will rely herein, upon the following federal mark registration(s):

<u>MARK</u>	<u>REGISTRATION NO(S).</u>	<u>ISSUED</u>
S Logo	3,412,024	April 15, 2008
SAFEWAY & S Logo	3,352,859	December 11, 2007

Printed information from the TARR and Assignment electronic databases of the USPTO showing the current status and title of these Registrations is attached as Exhibit A.

5. In addition to the goods and services specified in the above-identified Registrations, Petitioner also has used Petitioner's Marks for other and various related products, including but not limited to laundry bleach; automatic dish washing detergents, detergent soap, laundry detergent; cold water body wash; fabric softeners, disposable wipes impregnated with chemicals or compounds for household use, all-purpose cleaners, glass cleaner, multi surface all-purpose cleaner with vinegar, all-purpose pine cleaner, sudsy ammonia for cleaning purposes, general purpose cleaning powder, toilet bowl detergents, thick liquid drain opener, drop in toilet bowl detergents, spray and shine shower cleaner, carpet cleaner foam, disposable wipes impregnated with cleansing compounds for use on floors, teeth whitening gel, teeth whitening strips, non-medicated mouth wash, denture cleanser, denture cleanser tabs, non-medicated breath freshening strips, shampoo, cream hair rinse, bath soap, liquid hand soap, hand moisturizers, non medicated disposable facial cleansing cloths, make-up remover, facial cream cleanser, moisturizing skin lotions., lip balms, cotton puffs for cosmetic purposes, all purpose cotton swabs for personal use, cotton balls for cosmetic purposes, cotton squares for cosmetic purposes,

sun block, children's sun block, aloe vera gel for cosmetic purposes, petroleum jelly for cosmetic purposes, cosmetic suntan lotions, self-tanning sprays, shaving creams and gels for men and women, nail polish remover, hydrogen peroxide for use on the hair, baby wipes, non-medicated baby bath preparations, baby lotion, baby oil, baby powder, baby shampoo/conditioner, non-medicated baby body wash, massage gels, non-medicated diaper rash ointments and lotions, non-medicated antifungal foot creams, hair conditioner for use in detangling, nose strip exfoliants for skin, antibacterial soap; aluminum foil; cutlery, namely, forks, spoons, and knives; razor blades, razor blade cartridges for men and women; chemically activated hot packs for medical purposes; wax paper, plastic wrap, plastic food storage bags for household use; general purpose plastic bags, lunch and sandwich bags; paper napkins, paper towels; trash bags; bathroom tissue, tissue paper, toilet tissue; disposable incontinence products, namely, adult paper diapers, babies' paper diapers, and training pants; drinking straws; cake molds and pans; paper, plastic and foam cups, dishes and bowls, scouring sponges, cleaning sponges, angle cut broom and dust pan set, heavy duty cotton mops, sponge mops, corn brooms, household rubber/latex gloves for general use, hypo vinyl household gloves for general use, disposable dusting cloths, dry dusting mitts, tooth brushes, dental floss, nylon mesh body cleansing bath sponges, baby bathtubs, cotton balls; processed nuts, snack mix consisting primarily of processed fruits and nuts; jellies, peanut butter, fruit preserves, jams, marmalade; flaked and shredded coconut; flavored and unflavored soy-based beverages used as a milk substitute, milk, soybean milk, yogurt, fruit flavored low fat yogurt; non-dairy coffee creamers; cheese, cheese in aerosol dispensers; butter; eggs, frozen egg whites; applesauce, cranberry sauce; canned whole and diced tomatoes, stewed tomatoes, whole peeled tomatoes, tomato paste and sauce; vegetable shortening; no-stick cooking oil and vegetable-based cooking and baking oil in spray dispensers; vegetable protein bits having a

bacon flavor; processed beans, namely, black beans, pinto beans, kidney beans, garbanzo beans, green beans, refried beans; canned pork and beans; soup, soup broths, namely, chicken, beef and vegetable; potatoes, namely, processed potatoes, hash brown potatoes, frozen French fried potatoes, instant potatoes, mashed potatoes, potato-based snack foods; sauerkraut; pickles; processed fruits and vegetables; frozen fruit and vegetables; frozen, canned and bottled fruit and vegetables; bagged, canned or bottled vegetables, dried vegetables; processed water chestnuts; garden salads, fruit salads; fruit-based snack foods; hamburgers, soy and veggie burger patties; chili; onion rings; beef stew; corned beef; bruschetta toppings; poultry; meat; bacon strips; frozen, prepared and packaged entrees and meals consisting primarily of meat, fish, poultry or vegetables; food package combinations consisting primarily of cheese or meat; pre-packaged dinners consisting primarily of meat, seafood or poultry served with pasta, rice or vegetables, seasoned meat, seafood, fish, poultry, or vegetables; canned tuna, tuna salad; canola oil, peanut oil, vegetable oil, processed edamame; chocolate truffles; semi-sweet chocolate baking chips; candies; relish; frozen entrees, namely, black bean and cheese enchiladas, bean and cheese burritos; macaroni and cheese dinners; cheese lasagna; cheese quesadillas; cold breakfast cereal, muesli; hot breakfast cereal; hominy; instant oatmeal; cocoa; rice-based, cereal-based, granola-based, potato-based, corn-based, candy-based and grain-based snack food and snack bars; soft pretzels; bread, hamburger rolls, hot dog rolls, bagels, English muffins, bread crumbs, stuffing; brownies and brownie mix; croissants; waffles; pancakes; croutons; corn starch for food; cakes, cake dough and mixes; candy cake decorations; cookies; graham crackers; chocolate candies; pastries; puddings and instant puddings; cheesecake; marshmallows; flavored and sweetened gelatins; confectionery chips for baking; pie crusts; crackers; pretzels, pretzel rods; cheese flavored puffed corn snacks; cheese flavored snacks, namely, cheese curls; corn tortilla chips;

processed sunflower seeds; microwave popcorn; salt; vinegars, namely, flavored, balsamic, red wine and white distilled vinegars; salad dressings; pure olive oil and extra virgin olive oil; honey; mustard; ketchup; mayonnaise; sauces, namely, sauces for barbecued meat, barbeque sauce, worcestershire sauce, marinades, cocktail, picante and pepper sauces; capers; sloppy joe sauce; steak, soy, taco and tamale sauces; syrups, namely, maple and chocolate syrup; tea, beverages made of tea; coffee and instant coffee, flavored coffee; frozen confections, ice cream, ice cream bars, frozen yogurt, sherbet, sorbet; flour; sugar and sugar substitutes; seasoned coating mixtures for foods; gravy; noodles, chowmein noodles; noodles and sauce mixes combined in unitary packages; noodles, sauce, and processed vegetables combined in unitary packages; processed corn; corn meal; tacos and taco shells; garlic bread and toast; rice, rice-based snack foods; macaroni and cheese; macaroni salad; pasta; prepared pasta, ravioli, tortellini; pasta and tomato sauces, namely, marinara sauce, tomato basil sauce, roasted garlic sauce, mushroom sauce, four cheese sauce, garlic basil sauce, alfredo sauce, pesto sauce, onion sauce, red bell pepper sauce, arrabiata flavored sauce, vodka flavored sauce, and meat sauces; pizza; salsa; hamburger sandwiches; sandwiches; frozen, prepared or packaged entrees and meals consisting primarily of pasta or rice; relish-based sandwich spread; fresh fruit and vegetables, unprocessed fruit, vegetables and nuts; fruit-flavored drinks and juices, namely cranberry, non-alcoholic cranberry cocktail, apple juice, blueberry juice, orange juice, grape juice, lemonade, lime, pineapple, banana, grapefruit, prune, tomato, apricot, berry punch, fruit punch; apple cider; soda pop, mixes for preparing non-alcoholic drinks, namely, tonic water, seltzer water and soda, sports drinks; drinking water; sparkling water and flavored sparkling water; seltzer water and flavored seltzer water; non-alcoholic cocktail mix. Use of Petitioner's Marks for these products

and services, and, in particular, for food and beverage products, is a natural expansion of Petitioner's use of its marks on the goods and services in the Registrations identified above.

6. Since its initial use of its S Logo marks, Petitioner has made investments in advertising and promoting its goods and services under its marks. Petitioner has used, advertised, promoted and offered Petitioner's goods and services bearing the marks to the public through various channels of trade in commerce, with the result that Petitioner's customers and the relevant purchasing public in general have come to know and recognize Petitioner's Marks and associate same with Petitioner and/or goods and/or services sold by Petitioner. Petitioner has established goodwill in connection with the sales of products and services under its marks.

7. Upon information and belief, on November 16, 2006, Respondent filed an application for registration of the alleged S Logo trademark for "milk and milk beverages, namely, milk beverages with high milk content, milk based beverages containing fruit juice, milk beverages containing fruits, milk drinks containing fruits, milk-based beverage containing coffee, soya milk, soybean milk; coffee, also coffee in filter packing, coffee-based beverages; coffee and coffee-based beverages containing milk, milk powder, coffee substitutes, cocoa, chocolate, cereals, fruits, sugar, herbs or spices or a combination of these products; coffee-extracts, namely, coffee in powder, granulated, or liquid form, instant coffee, coffee substitutes; tea, tea-based beverages, namely beverages made of tea, leaf tea, herbal tea, tea-extracts, instant tea, tea-substitutes; tea for infusions, infusions, namely, tea for infusions, herbal infusions; cocoa, cocoa-based beverages, chocolate and chocolate extracts in powder, granulated or liquid form; and sugar." Said application was registered on August 19, 2008 and assigned Registration No. 3,488,805.

8. Respondent's S Logo mark is a simulation and colorable imitation of, and so resembles Petitioner's Marks as to be likely, when applied to the proposed goods of Respondent, to cause confusion or mistake or to deceive the relevant consuming public resulting in damage and detriment to Petitioner and its reputation, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

9. Upon information and belief, Petitioner's and Respondent's goods and services will be sold in close proximity and purchased and consumed by the same general class of purchasers.

10. Petitioner, upon information and belief, avers that members of the relevant consuming public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Respondent's proposed goods to be marketed under Respondent's alleged S Logo mark and misled into believing that such goods are produced by, emanate from, or are in some way associated with Petitioner, to the damage and detriment of Petitioner and its reputation.

11. Petitioner, upon information and belief, avers that it will be damaged by the continued registration by Respondent of its S Logo mark, as set forth in Respondent's Trademark Registration No. 3,488,805, in that the mark is confusingly similar to Petitioner's trademarks and common law rights and will be used in connection with goods and/or services identical and/or related to the goods and services offered by Petitioner.

WHEREFORE, Petitioner requests that this Petition for Cancellation be granted and that Registration No. 3,488,805 be cancelled.

Petitioner has appointed JORDAN S. WEINSTEIN, a member of the law firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, L.L.P., a member of the Bar of the Commonwealth of Virginia, to prosecute this opposition proceeding and to transact all

business in and before the United States Patent and Trademark Office in connection herewith.

Please address all correspondence to:

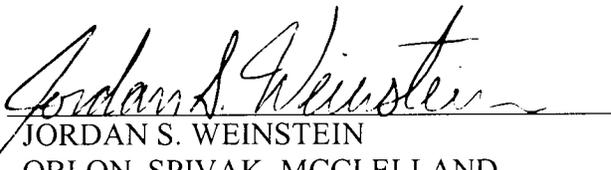
JORDAN S. WEINSTEIN
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, Virginia 22314

We enclose our credit card payment form or check for the required filing fee for this Petition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-2014.

Respectfully submitted,

SAFEWAY INC.

By:



JORDAN S. WEINSTEIN
OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: tmdocket@oblon.com
Attorneys for Petitioner

Dated: December 17, 2010

JSW/dlb {4784110_1.DOC}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **PETITION FOR CANCELLATION** was served on Respondent, as identified by the records of the U.S. Patent and Trademark Office, this 17th day of December , 2010, by sending same via First Class mail, postage prepaid, to:

Mary Margaret Murray
Sara Lee Corporation
3500 Lacey Road
Downers Grove IL 60515
Phone Number: 630-598-6402
Fax Number: 630-598-7333

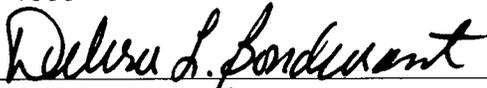

Debra L. Bordurant

EXHIBIT A



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Word Mark	S
Goods and Services	IC 035. US 100 101 102. G & S: Retail grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline. FIRST USE: 20050418. FIRST USE IN COMMERCE: 20050418
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.09.03 - Incomplete squares; Squares, incomplete 26.09.12 - Squares with bars, bands and lines 26.09.21 - Squares that are completely or partially shaded 26.09.25 - Squares with curved sides 26.17.02 - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)
Trademark Search Facility Classification Code	LETS-1 S A single letter, multiples of a single letter or in combination with a design SHAPES-COLORS-2 Design listing or lined for two colors SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
Serial Number	76978775
Filing Date	April 25, 2005
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 31, 2006
Registration Number	3412024
Registration Date	April 15, 2008

Owner (REGISTRANT) SAFEWAY INC. CORPORATION DELAWARE 5918 Stoneridge Mall Road
Pleasanton CALIFORNIA 94588

Attorney of Record Jordan S. Weinstein

Prior Registrations 0722393;1550577;AND OTHERS

Description of Mark The color(s) red and white is/are claimed as a feature of the mark. The mark consists of a red square with rounded corners containing a stylized white letter "S".

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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No assignment has been recorded at the USPTO

For Serial Number: 76978775

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Web interface last modified: Apr 30, 2009 v.2.1

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Word Mark	S SAFEGWAY
Goods and Services	IC 035. US 100 101 102. G & S: Retail grocery store, pharmacy and drugstore services; retail store services featuring convenience store items and gasoline. retail store services featuring a full line of groceries, prepared foods, drugstore and supermarket products, namely, weight loss shakes, advance nutrition supplement shakes, teeth whitening gel, teeth whitening strips, tooth brushes, mouth wash, antiseptic mouthwash, denture cleanser, denture cleanser tabs, dental floss, breath strips, hair detangler, shampoo, cream rinse, bath soap, antibacterial soap, liquid hand soap, hand sanitizer, hand moisturizers, mesh bath poof, acne wash, acne treatment cream, facial cleansing cloths, cleansing nose strips, makeup remover, facial cream cleanser, moisturizing skin lotions, lip balms, cotton balls, cosmetic puffs, cotton swabs, cotton rounds, cotton squares, sun block, children's sun block, aloe vera gel, suntan lotions, sunless tanning sprays, razor blades, razor blade cartridges for men and women, shaving creams and gels for men and women, nail polish remover, dietary supplements, vitamins, multivitamins for men and women, children's chewable vitamins, children's multivitamins, aspirin, children's aspirin, junior aspirin, liquid aspirin for babies, ibuprofen, children's ibuprofen, infant ibuprofen, pain relievers, non-aspirin pain relievers (all in liquid, gel cap and/or tab forms), menstrual cramp pain reliever, chewable non-aspirin pain relievers, sleep aids, stay awake stimulant tabs, nicotine patches, heat packs, cold packs, cold and cough medications (liquid, gel cap and tab forms), cough syrups, night time cough syrups, daytime/nighttime cold medicine, decongestants, day/night flu medicine (liquid, gel caps and tab forms), severe cold and flu caps, suphedrin cold and flu, allergy relieve tabs and gel caps, antihistamine relief, sore throat liquids, nasal sprays, cough drops, sore throat sprays, thermometers, antacid tabs and liquids. gas relief gel caps, acid reducers, stomach relief liquids, laxatives, ready to use enemas, anti-diarrhea caps, fiber laxatives, milk of magnesia, mineral oil, dairy digestives, hemorrhoid pads and ointments, eye drops, saline solution, messaging gels, antifungal foot creams, alcohol swabs, hydrogen peroxide, iodine, isopropyl alcohol, rubbing alcohol, witch hazel, anti itch cream, hydrocortisone cream, lice treatment shampoo, antibiotic ointments and creams, adhesive tape, adhesive bandages, liquid bandages, petroleum jelly, bladder control pads, bladder control briefs, bladder control guards, tampons, maxi pads, mini pads, panty liners, miconazole, ovulation test kit, pregnancy test kit, lubricating jelly, personal lubricating liquid, electrolyte replenisher, pediatric electrolyte drinks, powdered infant/baby formula, liquid infant/baby formula, infant/baby disposable

diapers, training pants for boys and girls, baby wipes, medicated baby wipes, baby bath, baby lotion, baby oil, baby powder, baby shampoo/conditioner, baby wash, diaper rash ointment, diaper rash creams, disposable baby bottle liners, pantyhose, trouser socks, knee high pantyhose, support hose, women's athletic socks, men's athletic socks, boy's and girls socks, lancets blood glucose, glucose monitor, glucose test kit. FIRST USE: 20050425. FIRST USE IN COMMERCE: 20050425

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.09.21 - Squares that are completely or partially shaded
26.09.25 - Squares with curved sides
26.17.02 - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)

Trademark Search Facility Classification Code LETS-1 S A single letter, multiples of a single letter or in combination with a design
SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors
SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
SHAPES-MISC Miscellaneous shaped designs

Serial Number 76630831

Filing Date February 9, 2005

Current Filing Basis 1A

Original Filing Basis 1B

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Registration Date December 11, 2007

Owner (REGISTRANT) SAFEWAY INC. CORPORATION DELAWARE 5918 Stoneridge Mall Road
Pleasanton CALIFORNIA 94588

Attorney of Record Jordan S. Weinstein

Prior Registrations 0206116;2809089;AND OTHERS

Description of Mark The colors white, red and black are claimed as features of the mark. The color white appears in the stylized "S" within the design element, the color red appears on either side of the stylized "S" in the design element, and the color black appears in the wording SAFEWAY.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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No assignment has been recorded at the USPTO

For Serial Number: 76630831

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.1
Web interface last modified: Apr 30, 2009 v.2.1

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