

ESTTA Tracking number: **ESTTA395617**

Filing date: **03/01/2011**

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	Rigoni di Asiago SpA		
Entity	Corporation	Citizenship	Italy
Address	Via Oberdan 28 Asiago (VI), 36012 ITALY		

Attorney information	Jason A. Cody Mod Law PLLC 559 North Oakland Street Arlington, VA 22203 UNITED STATES jcody@mod-law.com Phone:703-665-4194
----------------------	---

**Registrations Subject to Cancellation**

Registration No	3305248	Registration date	10/09/2007
Registrant	Fiordifrutta LLC 353 Christian Street Oxford, CT 06478 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 029. First Use: 2006/12/12 First Use In Commerce: 2006/12/12  
All goods and services in the class are cancelled, namely: Hazel nut spread

**Grounds for Cancellation**

False suggestion of a connection	Trademark Act section 2(a)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14		
Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3305247	Registration date	10/09/2007
Registrant	Fiordifrutta LLC 353 Christian Street Oxford, CT 06478 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 030. First Use: 2006/12/09 First Use In Commerce: 2006/12/09  
 All goods and services in the class are cancelled, namely: Honey

### Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3701776	Application Date	03/05/2007
Registration Date	10/27/2009	Foreign Priority Date	12/29/2006
Word Mark	FIORDIFRUTTA		
Design Mark			
Description of Mark	The mark consists of the words "FIOR di FRUTTA" written in fantasy style. The color GREEN appears in all of the wording of the mark; the color WHITE appears as the background color for the mark.		
Goods/Services	Class 029. First use: Jams		

U.S. Registration No.	3460477	Application Date	05/07/2007
Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	NOCCIOLATA		

Design Mark	
Description of Mark	The mark consists of brown stylized letters spelling the word "Nocciolata" below a red silhouette of a squirrel eating a nut while standing on a branch, all on a white background.
Goods/Services	Class 029. First use: First Use: 2003/01/31 First Use In Commerce: 2003/01/31 Hazelnut spread

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The word mark FIORDIFRUTTA.		
Goods/Services	Jams.		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The word mark NOCCIOLATA.		
Goods/Services	Hazelnut spread.		

Attachments	79037496#TMSN.jpeg ( 1 page )( bytes ) 77174669#TMSN.jpeg ( 1 page )( bytes ) Petition for Cancellation with Exhibits A-F.pdf ( 29 pages )(1843559 bytes )
-------------	--

### 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	/Jason A. Cody/
Name	Jason A. Cody
Date	03/01/2011

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

In the Matter of Registration No. 3,305,247  
Issued: 9 October 2007

In the Matter of Registration No. 3,305,248  
Issued: 9 October 2007

Rigoni di Asiago SpA

Petitioner

v.

Fiordifrutta LLC

Registrant

Cancellation No. \_\_\_\_\_

CONSOLIDATED PETITION FOR CANCELLATION

Rigoni di Asiago SpA (hereinafter “Petitioner” or “Rigoni”), an Italian corporation, having its principal place of business at Via Oberdan 28, 36012 Asiago (VI), Italy, believes that it is being damaged by Registration Nos. 3,305,247 and 3,305,248, which both issued on October 9, 2007, and hereby petitions to cancel same.

The grounds for cancellation are as follows:

1. On information and belief, Fiordifrutta LLC (hereinafter “Registrant”) is the owner of U.S. Registration No. 3,305,247 of the mark FIORDIMIELE, which issued on October 9, 2007, for honey.

2. On information and belief, Registrant is the owner of U.S. Registration No. 3,305,248 of the mark FIORDINOCCIOLA, which issued on October 9, 2007, for hazel nut spread.

3. Petitioner began doing business in the 1930s as a Rigoni family business, producing and marketing honey (“miele” in Italian) and jams in Altopiano di Asiago, Italy. From 1979 to 1997, the company operated under the name Apicoltura Rigoni di Mario E Paolo Rigoni & Company, S.n.c., and on November 11, 1997, the Rigoni family established Rigoni di Asiago SpA. In the early 1990s, the company decided to focus exclusively on organic products made from organic fruit and sweetened with apple juices (instead of sugar).

4. Today, Petitioner is a leading manufacturer of specialty organic foods, such as honey, jams, and hazelnut spread, and its products are sold in the United States, in Italy, and throughout Europe under, *inter alia*, the marks FIORDIFRUTTA and FIORDIFRUTTA & Design for jams (Petitioner’s “FIORDIFRUTTA Marks”) and the marks NOCCIOLATA and NOCCIOLATA & Design for hazelnut spread (Petitioner’s “NOCCIOLATA Marks”).

5. Since the 1930s and well prior to issuance of and dates of first use alleged in the subject registrations, Petitioner’s predecessors and Petitioner, on its own and through related companies, has continuously marketed and sold its honey in connection with the Italian word “miele,” which means honey.

6. Since at least 1996 and well prior to issuance of and dates of first use alleged in the subject registrations, Petitioner adopted the FIORDIFRUTTA Marks and has continuously marketed and sold its organic jam products under its FIORDIFRUTTA Marks throughout the United States on its own, through two prior related, U.S. subsidiary companies, Apicoltura Rigoni USA, Inc. and Rigoni USA, Inc., and through its present related, U.S. subsidiary company, Rigoni di Asiago USA LLC.

7. Since at least 2002 and well prior to issuance of and dates of first use alleged in the subject registrations, Petitioner adopted the NOCCIOLATA Marks and has continuously

marketed and sold its organic hazelnut spread products under its NOCCIOLATA Marks throughout the United States on its own, through a prior related, U.S. subsidiary company, Rigoni USA, Inc., and through its present related, U.S. subsidiary company, Rigoni di Asiago USA LLC.

8. Since approximately August 2006, Petitioner's related company Rigoni di Asiago USA LLC has been the only company authorized to import and distribute Petitioner's products in the United States.

9. In accordance with Section 5 of the Federal Trademark Act, all use of Petitioner's FIORDIFRUTTA Marks and NOCCIOLATA Marks by Petitioner's related companies, as alleged herein, inures to the benefit of Petitioner.

10. Petitioner is the owner of the FIORDIFRUTTA Marks and the NOCCIOLATA Marks. Petitioner has continuously used the FIORDIFRUTTA Marks and the NOCCIOLATA Marks for jams and hazelnut spread, respectively, and in the advertising and sales thereof, in U.S. commerce since well prior to the issuance of and the dates of first use alleged in Registration Nos. 3,305,247 and 3,305,248.

11. By virtue of the prior and continuous advertising and sales of jams and hazelnut spreads, purchasers of such goods and others have come to recognize the FIORDIFRUTTA Marks and the NOCCIOLATA Marks, respectively, as singular indications of origin, as a consequence of which Petitioner has established valuable goodwill and exclusive rights in these marks.

12. Petitioner duly registered FIORDIFRUTTA & Design as a mark for jams in the United States Patent and Trademark Office under Registration No. 3,701,776. (A true and accurate copy of this registration printed from the United States Patent and Trademark Office's

(USPTO) Trademark Application and Registration Retrieval (TARR) system is annexed hereto as Appendix A.)

13. Petitioner duly registered NOCCIOLATA & Design as a mark for hazelnut spread in the United States Patent and Trademark Office under Registration No. 3,460,477. (A true and accurate copy of this registration printed from the United States Patent and Trademark Office's (USPTO) Trademark Application and Registration Retrieval (TARR) system is annexed hereto as Appendix B.)

14. Registration Nos. 3,701,776 and 3,460,477 are *prima facie* evidence of the validity thereof and Petitioner's ownership and exclusive right to use the marks FIORDIFRUTTA & Design and NOCCIOLATA & Design in commerce, and are constructive notice of Petitioner's ownership thereof, all as provided by Sections 7(b) and 22 of the Federal Trademark Act of 1946, as amended.

15. This is not the first petition for cancellation brought by Petitioner against Registrant. On November 22, 2006, Petitioner filed with the Board a petition to cancel (Cancellation No. 92/046,666) Registration No. 2,730,330 of the mark FIORDIFRUTTA & Design for jams, jellies, preserves, marmalade, and fruit-based spreads. Registration No. 2,730,330 was issued to Rigoni USA, Inc. and assigned to Registrant through the illegal acts of the president of both Rigoni USA, Inc. and of Registrant, Claudio Mucci, for the purpose of stealing Petitioner's mark FIORDIFRUTTA.

16. Petitioner previously authorized Claudio Mucci and Rigoni USA, Inc. to sell Petitioner's products, including honey (miele), FIORDIFRUTTA jams, and NOCCIOLATA hazelnut spread, in the United States until approximately August 2006, when Petitioner terminated that authority based on discovering Mr. Mucci's ongoing fraudulent acts, through

Rigoni USA, Inc. and Registrant, contrary to the rights and interests of Petitioner. Registrant was never authorized to sell Rigoni products.

17. The Board suspended Cancellation No. 92/046,666, while Petitioner litigated a trademark action in the United States District Court for the Southern District of Florida (Case No. 07-20070-CIV-JORDAN) against Registrant, Mr. Mucci, and Rigoni USA, Inc., involving, *inter alia*, the mark FIORDIFRUTTA. After a bench trial, the district court found that Petitioner was the exclusive owner of the mark FIORDIFRUTTA, that Registration No. 2,730,330 was fraudulently procured by Registrant, Claudio Mucci, and Rigoni USA, Inc., and that Registrant, Claudio Mucci, and Rigoni USA, Inc. infringed Petitioner's rights in the mark FIORDIFRUTTA. The court entered a final judgment ordering cancellation of the fraudulently procured Registration No. 2,730,330 and permanently enjoining these three infringers "from using in any form the terms FIORDIFRUTTA, RIGONI DI ASIAGO, RIGONI, FIOR, and any other term confusingly similar to a mark owned by Rigoni di Asiago as, or incorporated in, a mark, trade name, or other commercial designation." (A true and accurate copy of the district court's certified final judgment order is annexed hereto as Appendix C.) Thus, Registrant has no legal right to use, and is prohibited from using, in commerce the marks FIORDIMIELE and FIORDINOCCIOLA because, *inter alia*, these marks incorporate the term "FIOR."

18. Subsequently, the Board granted Petitioner's petition to cancel the fraudulently procured Registration No. 2,730,330 for the mark FIORDIFRUTTA for jams, thereby terminating Cancellation No. 92/046,666. (A true and accurate copy of the Board's order printed from the Board's Inquiry System, TTABVUE, is annexed hereto as Appendix D.)

19. Within one month of Petitioner filing the petition to cancel Registration No. 2,730,330 for the mark FIORDIFRUTTA, Registrant, by and through its sole member Claudio

Mucci, filed applications to register the marks FIORDIMIELE and FIORDINOCCIOLA, which matured into the registrations that are the subject of this proceeding.

20. The specimen of use submitted by Registrant in connection with filing its application which matured into Registration No. 3,305,247 of the mark FIORDIMIELE is a label depicting Petitioner's mark FIORDIFRUTTA & Design. (A true and accurate copy of this specimen printed from the United States Patent and Trademark Office's (USPTO) Trademark Document Retrieval (TDR) system is annexed hereto as Appendix E.) The specimen of use shown in the application which matured into Registration No. 3,305,247 also depicts Petitioner's unique six digit Uniform Product Code (UPC 652642), assigned exclusively to Petitioner by a non-profit organization GS1 US (formerly the Uniform Code Council). Petitioner never authorized or otherwise gave permission to Registrant to depict Petitioner's mark FIORDIFRUTTA & Design or use Petitioner's unique UPC code on labels for any of Registrant's products.

21. The specimen of use submitted by Registrant in connection with filing its application which matured into Registration No. 3,305,247 also uses the term "organic farming" and the Star-K-Kosher and the BioAgri certifications, and, upon information and belief, Registrant does not offer honey produced by organic farming and Registrant is not certified Star-K-Kosher and BioAgri.

22. The specimen of use submitted by Registrant in connection with filing its application which matured into Registration No. 3,305,248 of the mark FIORDINOCCIOLA is a label depicting Petitioner's unique six digit Uniform Product Code (UPC 652642), assigned exclusively to Petitioner by a non-profit organization GS1 US (formerly the Uniform Code Council). (A true and accurate copy of this specimen printed from the United States Patent and

Trademark Office's (USPTO) Trademark Document Retrieval (TDR) system is annexed hereto as Appendix F.) Petitioner never authorized or otherwise gave permission to Registrant to depict Petitioner's unique UPC code on labels for any of Registrant's products.

23. In addition, the specimen of use submitted by Registrant in connection with filing its application which matured into Registration No. 3,305,248 also uses the term "organic farming" and the USDA Organic, the Star-K-Kosher, and the BioAgri certifications, and, upon information and belief, Registrant does not offer hazelnut spread produced by organic farming and Registrant is not certified USDA Organic, Star-K-Kosher, and BioAgri.

24. Upon information and belief, Registrant fraudulently procured Registration Nos. 3,305,247 and 3,305,248 to knowingly misappropriate Petitioner's valuable goodwill and exclusive rights in the FIORDIFRUTTA Marks and the NOCCIOLATA Marks and to deceive the public as to the source of goods sold under the marks FIORDIMIELE and FIORDINOCCIOLA.

25. Upon information and belief, Registrant has discontinued all use of the marks FIORDIMIELE and FIORDINOCCIOLA with no intention to resume use of said marks so that the marks FIORDIMIELE and FIORDINOCCIOLA have lost all capacity as source indicator's for Registrant's goods. To the extent Registrant does make any use of the marks FIORDIMIELE and FIORDINOCCIOLA, such use is specifically prohibited by order of the United States District Court for the Southern District of Florida, and is therefore illegal. Accordingly, Registrant has abandoned all rights in the marks FIORDIMIELE and FIORDINOCCIOLA.

26. Besides any use of the marks FIORDIMIELE and FIORDINOCCIOLA being illegal, if Registrant still makes use of such marks in connection with honey and hazelnut spread, respectively, then purchasers, prospective purchasers and others are likely to be confused,

mistaken or deceived into the belief, contrary to fact, that Registrant's goods sold under the marks FIORDIMIELE and FIORDINOCCIOLA emanate from and/or are sponsored or approved by Petitioner and/or that Registrant is somehow affiliated with Petitioner, thereby damaging Petitioner. Confusion is especially likely since the goods on which Petitioner uses the term "miele" (honey) and the FIORDIFRUTTA Marks and the NOCCIOLATA Marks and the goods described in Registration Nos. 3,305,247 and 3,305,248 are identical and are likely sold through the same or commercially related channels of trade to the same or overlapping classes of purchasers, including Petitioner's customers and prior customers.

27. For the reasons set forth above, Petitioner is being damaged by the continued existence of Registration Nos. 3,305,247 and 3,305,248, and the business and goodwill of Petitioner is further damaged in that said registrations tend to create or maintain statutory rights in violation and derogation of the established rights of Petitioner.

WHEREFORE, Petitioner prays that judgment be entered herein canceling U.S. Trademark Registration Nos. 3,305,247 and 3,305,248, and for such other and further relief that may be just and proper.

The requisite filing fee for this Consolidated Petition for Cancellation is submitted herewith.

RIGONI DI ASIAGO SPA

Dated: 1 March 2011

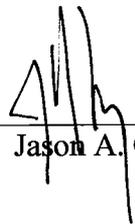
By:

  
\_\_\_\_\_  
Jason A. Cody  
Mod Law pllc  
559 North Oakland Street  
Arlington, Virginia 22203  
Tel: 703.665.4194  
Fax: 703.996.4716  
jcody@mod-law.com

Certificate of Service

In accordance with Rule 2.113(a) of the Trademark Rules of Practice, as amended, it is hereby certified that a true copy of the foregoing Consolidated Petition for Cancellation was served on the following counsel of record for Registrant by U.S. mail, first class postage prepaid, this 1st day of March 2011:

James R. Meyer, Esq.  
Schnader Harrison Segal & Lewis LLP  
Intellectual Property Department  
1600 Market Street, Suite 3600  
Philadelphia, PA 19103-7286



---

Jason A. Cody

# **EXHIBIT A**

---

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

Rigoni di Asiago SpA v. Fiordifrutta LLC

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-02-23 13:28:11 ET

Serial Number: 79037496 Assignment Information

Trademark Document Retrieval

Registration Number: 3701776

Mark

The logo for 'Fiordifrutta' features a large, ornate, blackletter-style 'F' that starts with a decorative flourish. The word 'iordifrutta' is written in a smaller, blackletter-style font to the right of the 'F'.

(words only): FIORDIFRUTTA

Standard Character claim: No

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2009-10-27

**Filing Date:** 2007-03-05

**Transformed into a National Application:** No

**Registration Date:** 2009-10-27

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2009-10-27

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

**1. RIGONI DI ASIAGO SPA****Address:**

RIGONI DI ASIAGO SPA

Via Oberdan, 28 I-36012 ASIAGO (VI)

Italy

**Legal Entity Type:** Joint Stock Company**State or Country Where Organized:** Italy

---

**GOODS AND/OR SERVICES****International Class:** 029**Class Status:** Active

Jams

**Basis:** 66(a)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

---

**ADDITIONAL INFORMATION****Color(s) Claimed:** The color(s) green and white is/are claimed as a feature of the mark.**Description of Mark:** The mark consists of the words "FIOR di FRUTTA" written in fantasy style. The color GREEN appears in all of the wording of the mark; the color WHITE appears as the background color for the mark.**Translation:** The English translation of "FIOR DI FRUTTA" is FRUIT FLOWER.

---

**MADRID PROTOCOL INFORMATION****International Registration Number:** 0921472**International Registration Date:** 2007-03-05**Priority Claimed:** Yes**Date of Section 67 Priority Claim:** 2006-12-29**International Registration Status:** Request For Extension Of Protection Processed**Date of International Registration Status:** 2007-05-31**International Registration Renewal Date:** 2017-03-05**Notification of Designation Date:** 2007-05-31**Date of Automatic Protection:** 2008-11-30**Date International Registration Cancelled:** (DATE NOT AVAILABLE)**First Refusal:** Yes

**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-04-02 - Final Decision Transaction Processed By IB

2010-02-25 - Final Disposition Notice Sent To IB

2010-02-25 - Final Disposition Processed

2010-01-27 - Final Disposition Notice Created, To Be Sent To IB

2009-10-27 - Registered - Principal Register

2009-08-11 - Published for opposition

2009-07-22 - Notice of publication

2009-07-09 - Law Office Publication Review Completed

2009-07-07 - Approved for Pub - Principal Register (Initial exam)

2009-06-16 - Report Completed Suspension Check Case Still Suspended

2008-12-15 - Report Completed Suspension Check Case Still Suspended

2008-11-14 - Notification Of Possible Opposition - Processed By IB

2008-10-30 - Notification Of Possible Opposition Sent To IB

2008-10-30 - Notification Of Possible Opposition Created, To Be Sent To IB

2008-10-01 - Assigned To Examiner

2008-06-13 - Report Completed Suspension Check Case Still Suspended

2008-06-13 - Assigned To LIE

2007-12-13 - Letter of suspension mailed

2007-12-12 - Suspension Letter Written

2007-12-11 - Teas/Email Correspondence Entered

2007-12-11 - Communication received from applicant

2007-12-11 - TEAS Response to Office Action Received

2007-07-13 - Refusal Processed By IB

2007-06-27 - Non-Final Action Mailed - Refusal Sent To IB

2007-06-27 - Refusal Processed By MPU

2007-06-27 - Non-Final Action (Ib Refusal) Prepared For Review

2007-06-26 - Non-Final Action Written

2007-06-18 - Assigned To Examiner

2007-06-04 - New Application Entered In Tram

2007-05-31 - Sn Assigned For Sect 66a Appl From IB

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**

BONINI FRANCESCO  
Corso Fogazzaro, 8  
I-36100 VICENZA  
ITALY

---

# **EXHIBIT B**

---

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

Rigoni di Asiago SpA v. Fiordifrutta LLC

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-02-23 13:29:00 ET**

**Serial Number:** 77174669 [Assignment Information](#)

[Trademark Document Retrieval](#)

**Registration Number:** 3460477

**Mark**

  
**Nocciolata**

**(words only):** NOCCIOLATA

**Standard Character claim:** No

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2008-07-08

**Filing Date:** 2007-05-07

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** 2008-07-08

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 112

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2008-07-08

---

### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Rigoni di Asiago S.p.A.

**Address:**

Rigoni di Asiago S.p.A.

Via Oberdan, 28

Asiago (VI) 36012

Italy

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Italy

---

### GOODS AND/OR SERVICES

---

**International Class:** 029

**Class Status:** Active

Hazelnut spread

**Basis:** 1(a)

**First Use Date:** 2003-01-31

**First Use in Commerce Date:** 2003-01-31

---

### ADDITIONAL INFORMATION

---

**Color(s) Claimed:** The color(s) brown, red, and white is/are claimed as a feature of the mark.

**Disclaimer:** "NOCCIOLATA"

**Description of Mark:** The mark consists of brown stylized letters spelling the word "Nocciolata" below a red silhouette of a squirrel eating a nut while standing on a branch, all on a white background.

**Translation:** The foreign wording in the mark translates into English as cream of nuts.

**Design Search Code(s):**

**03.09.02** - Badgers; Beavers; Chipmunks; Ferrets; Groundhogs; Minks; Mongoose; Opossums; Otters; Possums; Raccoons; Sables; Skunks; Squirrels; Squirrels, chipmunks, skunks, raccoons, badgers, woodchucks, beavers, sables, minks and the like; Weasels; Wolverines; Woodchuck

**03.09.24** - Stylized small mammals, rodents, kangaroos, wallabies

**05.03.09** - Needles, branches with needles

**05.07.05** - Nuts (edible), With shells

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

---

**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-09-23 - TEAS Change Of Correspondence Received

2008-07-08 - Registered - Principal Register

2008-04-22 - Published for opposition

2008-04-02 - Notice of publication

2008-03-18 - Law Office Publication Review Completed

2008-03-18 - Assigned To LIE

2008-03-02 - Approved for Pub - Principal Register (Initial exam)

2008-02-11 - Teas/Email Correspondence Entered

2008-02-11 - Communication received from applicant

2008-02-11 - TEAS Response to Office Action Received

2007-08-22 - Notification Of Non-Final Action E-Mailed

2007-08-22 - Non-final action e-mailed

2007-08-22 - Non-Final Action Written

2007-08-20 - Assigned To Examiner

2007-05-11 - Notice Of Design Search Code Mailed

2007-05-10 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Thomas M. Champagne

**Correspondent**

Thomas Michael Champagne

IP Strategies, P.C.

1048 Dead Run Drive

McLean VA 22101

Phone Number: 703-248-9220

Fax Number: 703-248-9244

---

# **EXHIBIT C**

---

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

**Rigoni di Asiago SpA v. Fiordifrutta LLC**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-20070-CIV-JORDAN

RIGONI USA, INC., et al, )  
 )  
 Plaintiffs/Counter Defendants )  
 )  
 vs. )  
 )  
 RIGONI DI ASIAGO USA, LLC et al, )  
 )  
 Defendants/ Counter Plaintiffs )  
 )  
 \_\_\_\_\_ )

Certified to be true and correct copy of the document on file  
Steven M. Larimore, Clerk,  
U.S. District Court,  
Southern District of Florida  
By *[Signature]*  
Deputy Clerk  
Date 5/26/09

FINAL JUDGMENT

Pursuant to Rules 54 and 58 of the Federal Rules of Civil Procedure, final judgment is hereby entered as follows.

1. With respect to all claims brought by the plaintiffs – Rigoni USA, Inc. and FiordiFrutta LLC – against the defendants – Rigoni di Asiago USA LLC, Rigoni di Asiago SPA, Andrea Rigoni, and Alberto Carli – final judgment is entered against the plaintiffs and in favor of the defendants. The plaintiffs shall take nothing from this action.

2. With respect to the trademark counterclaim brought by Rigoni di Asiago against the counter-defendants under 15 U.S.C. § 1119, final judgment is hereby entered in favor of Rigoni di Asiago and against Rigoni USA, Inc., FiordiFrutta, LLC, and Claudio Mucci. The Commissioner of Patents and Trademarks is hereby directed to cancel U.S. Trademark Registration No. 2,730,330.

3. Pursuant to 15 U.S.C. § 1116, the counter-defendants are immediately and permanently enjoined from using in any form the terms FIORDIFRUTTA, RIGONI DI ASIAGO, RIGONI, FIOR, and any other term confusingly similar to a mark owned by Rigoni di Asiago as, or incorporated in, a mark, trade name, or other commercial designation.

4. With respect to the counterclaim brought by Rigoni di Asiago against the counter-defendants under 15 U.S.C. § 1120, and the common law claim for fraudulent misrepresentation (Counts II, XIV), final judgment is entered in favor of Rigoni di Asiago and against Rigoni USA, Inc., in the amount of \$1 on each of these claims, for which let execution issue.

5. With respect to the unfair competition counterclaims brought by Rigoni di Asiago (Counts III, IV, VII), final judgment is hereby entered in favor of Rigoni di Asiago and against Rigoni USA,

Inc., and Claudio Mucci, jointly and severally, in the amount of \$878,223.67 on all three counts, for which let execution issue.

6. With respect to the counterclaims for constructive trust and accounting (Counts V, VI), final judgment is entered in favor of Rigoni USA, Inc., and against Rigoni di Asiago. Rigoni di Asiago shall take nothing by these counterclaims.

7. With respect to the counterclaims seeking to recover unpaid debt (Counts IX, X, XI), final judgment is entered in favor of Rigoni di Asiago and against Rigoni USA, Inc., in the amount of \$1,425,273.36, plus \$249,422.84 in prejudgment interest, for which let execution issue. Final judgment is also entered in favor of Rigoni di Asiago and against Claudio Mucci in the amount of \$259,063.21, plus \$45,336.06 in prejudgment interest, for which let execution issue.

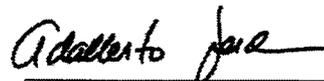
8. With respect to the counterclaim seeking to pierce the corporate veil of Rigoni di Asiago, Inc., against Claudio Mucci, final judgment is entered in favor of Claudio Mucci. Rigoni di Asiago shall take nothing by this counterclaim.

9. With respect to the counterclaim for breach of fiduciary duty, final judgment is entered in favor of Rigoni di Asiago and against Claudio Mucci, in the amount of \$1, for which let execution issue.

10. Rigoni di Asiago and Andrea Rigoni shall recover the sum of \$1,450,289.80 in attorney's fees and \$20,043.44 in costs from Rigoni USA, Inc. and Claudio Mucci, jointly and severally, for which let execution issue.

11. Post-judgment interest shall accrue at the rate established by 28 U.S.C. § 1961, beginning on January 14, 2009, the day on which I entered my finding of fact and conclusions of law in this case.

DONE and ORDERED in chambers in Miami, Florida, this 24<sup>th</sup> day of March, 2009



Adalberto Jordan  
United States District Judge

Copy to: All counsel of record

# **EXHIBIT D**

---

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

Rigoni di Asiago SpA v. Fiordifrutta LLC

Tyson

U. S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

---

Rigoni Di Asiago, Spa

v.

Fiordifrutta LLC

---

Cancellation No. 92046666

---

Eric T. Fingerhut of Howrey LLP for Rigoni Di Asiago, Spa.  
Paul N. Tauger of Bryan Cave LLP for Fiorifrutta LLC.

---

Whereas Rigoni Di Asiago, Spa petitioned for  
cancellation of Registration No. 2730330, issued to  
Fiordifrutta LLC for the mark FIORDIFRUTTA; and

Whereas Registraion No. 2730330 has been involved in  
Civil Action No. 07-20070-CIV-JORDAN in the United States  
District Court for the Southern District of Florida, wherein  
the Court ordered the Director of the United States Patent  
and Trademark Office to rectify the Trademark Register to  
show that Registration No. 2730330 has been cancelled;

Therefore, in accordance with Section 37 of the  
Trademark Act, 15 U.S.C. §1119, the Principal Register of  
Trademarks is hereby rectified by cancelling Registration  
No. 2730330.

A handwritten signature in black ink, appearing to read "Lynne G. Beresford". The signature is written in a cursive style with a large initial "L".

Lynne G. Beresford  
Commissioner for Trademarks

JUN 24 2009

# **EXHIBIT E**

---

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

Rigoni di Asiago SpA v. Fiordifrutta LLC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Examining Operation**

Mark: FIORDIMIELE  
 Applicant: Fiordifrutta LLC  
 Class No: 30  
 Register: Principal

Attorney Docket No. 3009181-0001/02US

**Example of Use**

<b>Nutrition Facts</b>	
Serving Size 1 Teaspoon (21g)	
Servings Per Container 19	
Amount Per Serving	
Calories 60	Calories from Fat 120 % Daily Value*
<b>Total Fat</b> 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 0mg	0%
<b>Total Carbohydrate</b> 17g	0%
Sugar 16g	6%
Protein 0g	
Not a significant source of dietary fiber, sugars, Vitamin A, Vitamin C, Calcium and Iron.	
*Percent "Daily Values" are based on a diet of 2,000 calories a day.	



STAR-K KOSHER CERTIFICATION

ORGANIC FARMING  
RAW HONEY

*Fiordimiele*  
ORANGE



bio-agri-cert  
NET WEIGHT  
400 g - (14.11 oz)

Italian Orange Honey  
From Calabria Region  
Product controlled and certified by:  
BIOAGRICERT s.r.l.  
Aut. D.M. M.P.A.F. del 29/03/2001 no. 91822  
in accordance with the EU no. 2092/91  
ITC BAC 13 7122 TOROZZE  
AWARD WINNING AGRICULTURA - ITALY  
Imported by:  
FIORDIFRUTTA LLC - 153 CHRISTIAN STREET  
OXFORD, CT 06405 - TEL. (203) 2673386  
See label.



# **EXHIBIT F**

---

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

Rigoni di Asiago SpA v. Fiordifrutta LLC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Trademark Examining Operation**

Mark: FIORDINOCCIOLA

Applicant: Fiordifrutta LLC

Class No: 29

Register: Principal

Attorney Docket No. 3009181-0001/03US

Example of Use

Nutrition Facts	
Serving Size 1 jar (350g)	
Amount Per Serving	
Calories 140	Calories from Fat 75
% Daily Value*	
Total Fat 8 g	16%
Saturated Fat 2 g	4%
Trans Fat 0 g	0%
Cholesterol 5 mg	1%
Sodium 20 mg	1%
Total Carbohydrate 17 g	4%
Dietary Fiber 10g (from 1 g)	20%
Sugars 9 g	
Protein 4 g	
Vitamin A 0%	Vitamin C 0%
Calcium 0%	Iron 2%

Fiordinocciola - Organic Hazelnut Spread  
 Ingredients: one cup sugar, softener, 100% hazelnut,  
 cocoa powder, milk powder, vanilla.  
 \* from organic farming, DO NOT REFRIGERATE

Produced by ADI Agricoltura s.r.l. - Via De' Gespeni, 22  
 Torricella (CH) - Italy - www.adiagricoltura.it  
 in distribution: Via Tardano, 11 - 01031 Costa Casalina (VT)

Certified organic by BIOACCERT s.r.l.  
 Via de' Maccheroni n. 8 - Castelchio & Bene (RC) Italy  
 e-mail: info@bioaccert.org  
 US BAC 131122 T 000011

Imported by:  
 FIORDIFRUTTA LLC - 151 CHRISTIAN STREET  
 OXFORD, CT 06457 - TEL. (203) 247-1100

L 8-051120

01 01 2008

52642 00260