

ESTTA Tracking number: **ESTTA454992**

Filing date: **02/06/2012**

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

Proceeding	92054980
Party	Defendant Paisanos Pasta, LLC
Correspondence Address	PAISANOS PASTA LLC 7029 NORTH INGRAM , SUITE 108 FRESNO, CA 93711 UNITED STATES paisanospasta@att.net
Submission	Answer
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Date	02/06/2012
Attachments	Paisanos Pasta Answer 4 Filing 20120206.pdf (6 pages)(19714 bytes)

Preamble. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

1a. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

1b. Registrant admits that U.S. Trademark Registration No. 3,553,382 states a “first use” date of March 22, 2008. Otherwise, Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

1c. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

1d. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

1e. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

2a. Registrant admits the allegations of this paragraph.

2b. Registrant admits the allegations of this paragraph.

3a. Registrant denies the allegations of this paragraph.

3b. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

3c. Registrant denies the allegations of this paragraph.

4a. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

4b. Registrant denies the allegations of this paragraph.

5a. Registrant denies the allegations of this paragraph.

5b. Registrant denies the allegations of this paragraph.

5c. Registrant denies the allegations of this paragraph because Registrant is without information sufficient to form a belief as to the truth of the allegations.

5d. Registrant denies the allegations of this paragraph.

5e. Registrant admits that it has, will have and maintains at least a prima facie exclusive right to the use of Registrant's Mark. Otherwise, Registrant denies the allegations of this paragraph.

6. Registrant denies the allegations of this paragraph.

Requested Relief. Registrant denies that Petitioner is entitled to any and/or all of the relief sought.

Further, Registrant hereby denies each and every allegation not specifically denied herein.

DEFENSES AND AFFIRMATIVE DEFENSES

In further response to the Petition for Cancellation, Registrant asserts the following defenses and affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Petitioner has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioner lacks standing to petition to cancel or otherwise contest Registrant's rights, applications and registrations.

THIRD AFFIRMATIVE DEFENSE

Petitioner lacks proprietary rights in the cited alleged mark.

FOURTH AFFIRMATIVE DEFENSE

Petitioner is barred by the doctrine of unclean hands from obtaining any relief against Registrant.

FIFTH AFFIRMATIVE DEFENSE

Petitioner and its claims are barred by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

Petitioner and its claims are barred by the doctrine of estoppel.

SEVENTH AFFIRMATIVE DEFENSE

Petitioner and its claims are barred by the doctrine of waiver.

EIGHTH AFFIRMATIVE DEFENSE

Petitioner and its claims are precluded by the Doctrine of Acquiescence.

NINTH AFFIRMATIVE DEFENSE

Petitioner and its claims are precluded by Petitioner's consent.

TENTH AFFIRMATIVE DEFENSE

Petitioner and its claims are precluded by Petitioner's abandonment of the alleged cited mark.

ELEVENTH AFFIRMATIVE DEFENSE

There is no likelihood of confusion between U.S. Trademark Registration No. 3,553,382 and Petitioner's alleged cited mark.

TWELVTH AFFIRMATIVE DEFENSE

Petitioner has not and will not be damaged by the continued registration of Registrant's mark.

THIRTEENTH AFFIRMATIVE DEFENSE

Registrant reserves the right to amend its answer to assert additional defenses and affirmative defenses as may become necessary after a reasonable opportunity for appropriate discovery.

WHEREFORE, Registrant prays that this Petition for Cancellation be dismissed with prejudice, and that the subject registration remain in full force and effect and for such other and further relief as may be appropriate.

Respectfully submitted,

Dated: February 6, 2012

By: /Bradley J. Levang/

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PAISANOS PASTA, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that based on agreement by the parties to accept service by electronic transmission, a copy of **Registrant's Answer to Petition for Cancellation** was served on Petitioner on February 6, 2012, by being sent via electronic mail to Petitioner's attorney of record as follows:

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Dated: February 6, 2012

By: /Bradley J. Levang/
Bradley J. Levang