

ESTTA Tracking number: **ESTTA464328**Filing date: **03/28/2012**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	Conopco Inc.		
Entity	Corporation	Citizenship	New York
Address	700 Sylvan Avenue Englewood Cliffs, NJ 07632 UNITED STATES		

Attorney information	LISA W. ROSAYA Baker & McKenzie LLP 1114 AVENUE OF THE AMERICAS NEW YORK, NY 10036 UNITED STATES nyctrademarks@bakermckenzie.com, erica.dangelo@bakermckenzie.com, lisa.rosaya@bakermckenzie.com
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Registrations Subject to Cancellation

Registration No	3475792	Registration date	07/29/2008
Registrant	Coe Licensing Company, Inc. 837 Bobolink Drive Virginia Beach, VA 23451 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2007/11/01 First Use In Commerce: 2007/11/01

All goods and services in the class are cancelled, namely: meats, cheeses, jellies, jams, dried fruits, dried vegetables, fruit preserves, pickles, candied fruit, candied nuts, cheese spreads, coleslaw, dips, food package combinations consisting primarily of cheese, meat, nuts or processed fruit, jellies, processed nuts, and roasted nuts

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Dilution	Trademark Act section 43(c)		
Registration No	3475793	Registration date	07/29/2008
Registrant	Coe Licensing Company, Inc. 837 Bobolink Drive Virginia Beach, VA 23451 UNITED STATES		

Goods/Services Subject to Cancellation

Class 030. First Use: 2007/11/01 First Use In Commerce: 2007/11/01

All goods and services in the class are cancelled, namely: baked goods, namely, bread, cakes, biscuits, cookies, pastries, chocolate covered nuts, corn chips, crackers, pasta salad, deli

sandwiches, coffee, tea, spices, salad dressing and sauces excluding applesauce and cranberry sauce


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85192480	Application Date	12/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LEGOÛT		
Design Mark			
Description of Mark	The mark consists of the wording "LEGOÛT" in blue. An irregular horizontal line in red appears above the wording, and an irregular horizontal line in blue appears below the wording.		
Goods/Services	Class 029. First use: First Use: 1947/00/00 First Use In Commerce: 1947/00/00 Soups; soup bases, namely, mixes for making soup, soup pastes; soup concentrate; soup stock; prepared entrees consisting primarily of meat, fish, poultry or vegetables; fruit-based pie fillings; instant fish, chicken, meat and vegetable mousse mixes Class 030. First use: First Use: 1947/00/00 First Use In Commerce: 1947/00/00 Gravies; sauces; instant sauces; instant puddings; chocolate-based pie fillings; custard-based pie fillings; instant chocolate and dessert mousse mixes; prepared entrees consisting primarily of pasta or rice		

U.S. Application No.	85192502	Application Date	12/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LEGOÛT		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: Soups; soup bases, namely, mixes for making soup, soup pastes; soup concentrate; soup stock; prepared entrees consisting primarily of meat, fish, poultry or vegetables; fruit-based pie fillings; instant fish, chicken, meat and vegetable mousse mixes</p> <p>Class 030. First use: Gravies; sauces; instant sauces; instant puddings; chocolate-based pie fillings; custard-based pie fillings; instant chocolate and dessert mousse mixes; prepared entrees consisting primarily of pasta or rice</p>

Attachments	85192480#TMSN.jpeg (1 page)(bytes) 85192502#TMSN.jpeg (1 page)(bytes) Cancellation .pdf (7 pages)(221365 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	/esd/
Name	LISA W. ROSAYAA
Date	03/28/2012

The USPTO assignment records indicate that Registration Nos. 3475793 and 3475792 have been assigned to TASTE UNLIMITED, LLC, 213 36TH STREET, VIRGINIA BEACH, VIRGINIA 23451. Accordingly, this Petition for Cancellation lists Taste Unlimited, LLC as the Registrant and is being served on Taste Unlimited, LLC, 213 36TH STREET, VIRGINIA BEACH, VIRGINIA 23451 via First Class Mail as noted in the Certificate of Service.

We wish to bring this to the attention of the TTAB as the Petition for Cancellation form does not allow for the amendment or correction of the Registrant's information.

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

Conopco, Inc.)	
Petitioner,)	
)	Cancellation No.: _____
v.)	Mark: TASTE
)	Registration Nos. 3475792 and 3475793
Taste Unlimited, LLC,)	Registered: July 29, 2008
Registrant.)	International Class: 30
)	

PETITION FOR CANCELLATION

Petitioner, Conopco, Inc., a corporation incorporated under the laws of New York, whose business address is 700 Sylvan Avenue, Englewood Cliffs, NJ 07632 (hereinafter “Petitioner”), believes that it is and will be damaged by Registration Nos. 3475792 and 3475793 for the mark **TASTE** (hereinafter “Registrations”), in the name of Taste Unlimited, LLC, (hereinafter “Registrant”), and hereby petitions to cancel said registrations.

To the best of Petitioner’s knowledge, the name and address of the current owner of the registrations is Taste Unlimited, LLC, 213 36th Street, Virginia Beach, VA 23451.

As grounds of this Petition, it is alleged that:

1. Petitioner is the applicant for U.S. Application Serial Nos. 85192480 for the LEGOUT (and Design) and 85192502 for the mark LEGOUT (collectively the “**LEGOUT Marks**”). Application Serial Nos. 85192480 and 85192502 both cover “[s]oups; soup bases, namely, mixes for making soup, soup pastes; soup concentrate; soup stock; prepared entrees consisting primarily of meat, fish, poultry or vegetables; fruit-based pie fillings; instant fish,

chicken, meat and vegetable mousse mixes” in International Class 29 and “[g]ravies; sauces; instant sauces; instant puddings; chocolate-based pie fillings; custard-based pie fillings; instant chocolate and dessert mousse mixes; prepared entrees consisting primarily of pasta or rice” in International Class 30. (“Petitioner’s Goods”).

2. The U.S. Patent and Trademark Office (“USPTO”) refused registration of Application Serial Nos. 85192480 and 85192502 under Section 2(d) of the Lanham Act on the ground that Petitioner’s **LEGOUT** Marks, when applied to Petitioner’s Goods, so resemble Registrant’s TASTE marks and goods covered in Registrant’s Registrations, said Registrations being the subject of this Petition, as to be likely to cause confusion, to cause mistake, or to deceive.

3. With respect to Registration Nos. 3475792 and 3475793, Registrant filed its initial applications on December 13, 2007 and the Registrations both issued on July 29, 2008. The Registrations claim use of Registrant’s TASTE marks in commerce in connection with “*meats, cheeses, jellies, jams, dried fruits, dried vegetables, fruit preserves, pickles, candied fruit, candied nuts, cheese spreads, coleslaw, dips, food package combinations consisting primarily of cheese, meat, nuts or processed fruit, jellies, processed nuts, and roasted nuts*” in International Class 29 and “*baked goods, namely, bread, cakes, biscuits, cookies, pastries, chocolate covered nuts, corn chips, crackers, pasta salad, deli sandwiches, coffee, tea, spices, salad dressing and sauces excluding applesauce and cranberry sauce*” in International Class 30 (“Registrant’s Goods”) since November 1, 2007.

4. Petitioner, since at least as early as the mid-1900s, has been and is now using Petitioner’s **LEGOUT** Marks or substantially similar versions thereof, in commerce on or in connection with Petitioner’s Goods.

5. Petitioner's first use of its **LEGOUT** Marks on or in connection with Petitioner's Goods predate any date upon which Registrant can rely.

6. Petitioner and its predecessor(s)-in-interest have used Petitioner's **LEGOUT** Marks, or substantially similar versions thereof, in interstate commerce in the United States for over 50 years.

7. Over the years, Petitioner has become widely recognized to the purchasing public as the source of products bearing the Petitioner's **LEGOUT** Marks, which are widely recognized by Petitioner's customers and the purchasing public as being associated with Petitioner's Goods and have become synonymous with the goodwill and reputation of Petitioner.

8. As a result of Petitioner's prominent, continuous, and longstanding use and the resulting public association of Petitioner's **LEGOUT** Marks with Petitioner, consumers are likely to mistakenly believe that Registrant's Goods emanate from Petitioner.

9. By virtue of Petitioner's extensive use and advertising, the Petitioner's **LEGOUT** Marks have become famous and became famous prior to the December 13, 2007 filing date of Registrant's initial applications and November 1, 2007, the alleged first use date listed in Registrant's initial applications, which are the subject of this Petition.

10. If Registrant's Registrations are maintained on the Principal Register, it will cause a likelihood of dilution by blurring and tarnishment of the distinctive quality of Petitioner's famous **LEGOUT** Marks.

11. Petitioner believes and alleges that Registrant's use of its alleged marks is calculated to trade off Petitioner's goodwill in Petitioner's **LEGOUT** Marks.

12. Upon information and belief, Registrant's Goods and Petitioner's Goods are likely to be offered, sold and used by the same class of purchasers.

13. Upon information and belief, Petitioner's Goods and Registrant's Goods are likely to be offered and/or promoted or sold in the same channels of commerce.

14. Petitioner believes and alleges that Registrant's TASTE marks are likely to cause confusion or mistake or to deceive, and will deceive and mislead the trade and the purchasing public into believing that Registrant's Goods are sponsored, approved or endorsed by Petitioner, or that Registrant is authorized, licensed or controlled by Petitioner, or that Registrant is a division or subsidiary of, or in some way related to Petitioner.

15. In view of the confusing similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Registrant's TASTE marks so resemble Petitioner's **LEGOUT** Marks previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

16. If U.S. Registration Nos. 3475793 and 3475792 are maintained on the Register, confusion in trade resulting in damage and injury to Petitioner will be caused and will result by reason of the confusingly similar nature of Registrant's TASTE marks and Petitioner's **LEGOUT** Marks. Furthermore, any misrepresentation, objection or fault found with Registrant's Goods sold or promoted under its marks would necessarily reflect on and seriously injure the reputation that Petitioner has established through its long and continuous use of its Petitioner's **LEGOUT** Marks.

17. Moreover, the USPTO refused registration of Petitioner's U.S. Application Serial Nos. 85192480 and 85192502 for Petitioner's **LEGOUT** Marks on the ground that Registrant's TASTE marks "so resemble[s] a registered mark that it is likely that a potential consumer would be

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confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant.” 15 U.S.C. § 1052(d). Accordingly, the continued existence of Registrant’s Registrations are damaging to Petitioner as the Registrations are impairing Petitioner’s right to register Petitioner’s **LEGOUT** Marks.

WHEREFORE, Petitioner prays that Registration Nos. 3475793 and 3475792 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

By: 

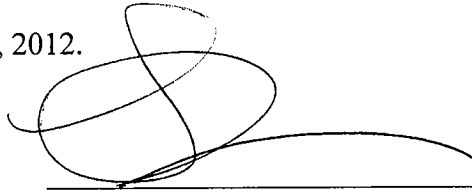
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Date: March 28, 2012

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document **PETITION TO CANCEL** was served by First Class Mail upon Taste Unlimited, LLC., 213 36th Street, Virginia Beach, VA 23451 on this 28th day of March, 2012.

A handwritten signature in black ink, appearing to read 'Erica S. D'Angelo', written over a horizontal line.

Erica S. D'Angelo