

ESTTA Tracking number: **ESTTA543105**

Filing date: **06/14/2013**

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 parties request to cancel indicated registration.

Petitioner Information

Name	Ms. Nora E Pineda Saca		
Entity	Individual	Citizenship	UNITED STATES
Address	16153 Covello Street Van Nuys, CA 91406 UNITED STATES		

Name	Ms. Vanessa Faggiolly		
Entity	Individual	Citizenship	UNITED STATES
Address	16153 Covello Street Van Nuys, CA 91406 UNITED STATES		

Attorney information	Tamara L. Harper Tamara L. Harper, Esquire 4333 Park Terrace Drive, Suite 120 Westlake Village, CA 91361 UNITED STATES tamara@tamaraharper.com Phone:8054090530		
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Registrations Subject to Cancellation

Registration No	3871780	Registration date	11/09/2010
Registrant	LET Import Co., L.L.C. 5716 Green Ash Dr. Houston, TX 770812604 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2007/01/01 First Use In Commerce: 2007/06/01 All goods and services in the class are cancelled, namely: cheese

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3875232	Registration date	11/16/2010
Registrant	LET Import Co., L.L.C. 5716 Green Ash Dr. Houston, TX 770812604 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2007/01/01 First Use In Commerce: 2007/06/01
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All goods and services in the class are cancelled, namely: cheese

Grounds for Cancellation

Priority and likelihood of confusion

Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3675468	Application Date	08/26/2008
Registration Date	09/01/2009	Foreign Priority Date	NONE
Word Mark	PERLA BANDERA DE EL SALVADOR		
Design Mark			
Description of Mark	The mark consists of a white background and the word "Perla" in brown color with yellow outline. The letter a in "Perla" ends with a long tail where at the end there is a black drawing of a cow jumping over an industrial plant. The wording "Bandera de El Salvador" is brown with yellow outline and is located at the lower right side of the mark.		
Goods/Services	Class 029. First use: First Use: 2005/06/15 First Use In Commerce: 2005/06/15 Sour Cream and Cheese		

Attachments

Petition for Cancellation.pdf(49773 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	/Tamara L. Harper/
Name	Tamara L. Harper
Date	06/14/2013

2. On August 26, 2008, Petitioner's predecessor in interest filed Application Ser. No. 77556311 with the United States Patent and Trademark Office under section 1(a) of the Trademark Act, 15 U.S.C. §1051(a) to register the design mark "PERLA BANDERA DE EL SALVADOR" (herein "Petitioner's Mark") in Class 29 for use in association with "sour cream and cheese."

3. Petitioners are the exclusive owners in the United States of the federally registered "PERLA BANDERA DE EL SALVADOR®" design mark (Registration No. 3675468) in Class 29 for use in association with "sour cream and cheese" (herein "Petitioner's Mark.")

4. This registration is valid and enforceable, and Petitioner's exclusive rights in the foregoing registered mark are incontestable.

5. Petitioners and Amerisal have used the PERLA BANDERA DE EL SALVADOR® brand name in the United States since at least as early as June 15, 2005. For more than eight years, Petitioners have produced, advertised, promoted, distributed and sold cheese and sour cream in interstate commerce under their PERLA BANDERA DE EL SALVADOR® Mark.

6. LET Import Co., L.L.C. (herein "Respondent"), is a Texas domestic limited liability company, having a business address of 5716 Green Ash, Houston, Texas, 77081.

7. On September 24, 2009, Respondent filed Applications Ser. No.'s 76699611 and 76699610 with the United States Patent and Trademark Office under section 1(a) of the Trademark Act, 15 U.S.C. §1051(a) to register the marks "CREMA PERLA" and "QUESO PERLA" (herein "Opposed Marks.")

8. Respondent is the owner of Registration No.'s 3871780 for the mark CREMA PERLA and 3875232 for the mark QUESO PERLA ("Respondent's Marks") in International Class 29 for "cheese" which were registered by the U.S. Patent and Trademark Office on November 9, 2010, and November 16, 2010, respectively, with the word, "CREMA" disclaimed and the word "QUESO" disclaimed.

9. Because Petitioners first used their PERLA BANDERA DE EL SALVADOR® Mark for cheese and sour cream four years before Respondent filed its application for the Opposed Mark, and such use has been continuous, Petitioners have priority of use.

10. By virtue of Petitioner's and Amerisal's long, continuous, extensive and exclusive use and marketing, promotion and sale of, and the widespread sale and purchase of cheese and sour cream under the PERLA BANDERA DE EL SALVADOR® Mark, the PERLA BANDERA DE EL SALVADOR® Mark has come to be recognized by the relevant public as identifying cheese and sour cream as having their origin or otherwise associated exclusively with Amerisal.

11. The Opposed Mark for the International Class 029 goods is confusingly similar, *inter alia*, in appearance, sound, and overall commercial impression to the PERLA Bandera De El Salvador® Mark. Specifically, the word "CREMA" has been disclaimed in the Opposed Mark, leaving only the word, PERLA in the Opposed Mark which is legally identical to the PERLA Bandera De El Salvador® Mark's word, "PERLA." The English translation in both Opposed Mark and Petitioner's Mark is identical and means, "Pearl." Further, Respondent's stated goods for the Opposed Mark are identical to the goods for which Petitioners uses the PERLA Bandera De El Salvador® Mark. Accordingly, it is likely that consumers will mistakenly believe that the Opposed Mark for International Class 029 is connected to or

associated with Petitioner, Amerisal, or its PERLA Bandera De El Salvador® Mark.

12. The continued registration of the Opposed Mark would be inconsistent with Petitioner's rights in their PERLA Bandera De El Salvador® Mark and will cause damage to Petitioners.

13. Petitioners and Amerisal have been and will continue to be damaged by the existence of Registration No. 3871780 in that consumers will mistakenly believe that the Opposed Mark for International Class 029 is connected to or associated with Petitioner, Amerisal, or its PERLA Bandera De El Salvador® Mark.

WHEREFORE, Petitioner prays this Petition for Cancellation be sustained in favor of Petitioner and Registration No.'s 3871780 and 3875232 be canceled.

This Petition for Cancellation is being filed via ESTTA together with the required filing fee in the amount of \$600.00 (\$300.00 per class per mark) as required by 37 C.F.R. §2.6(a)(16).

Respectfully submitted,

Dated: June 14, 2013

By:



Tamara L. Harper

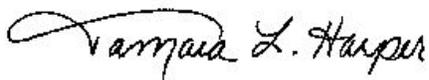
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Attorneys for Petitioners, Nora Elizabeth Pineda
Saca and Vanessa Faggiolly

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing "PETITION FOR CANCELLATION" was served on **June 14, 2013** by first-class mail, postage prepaid, to Registrant's address of record addressed as follows:

LET Import Co., L.L.C
5716 Green Ash Drive
Houston, TX 77081-2604



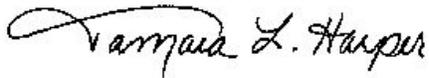
Dated: June 14, 2013

Tamara L. Harper

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office via ESTTA with the required fees on the date identified below.

Dated: June 14, 2013



Tamara L. Harper