

ESTTA Tracking number: **ESTTA653794**

Filing date: **02/03/2015**

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, Esquire Barnes & Thornburg, LLP 1717 Pennsylvania Avenue Suite 500 Washington, DC 20006 UNITED STATES docketingtm-dc@btlaw.com, jweinstein@btlaw.com, dbondurant@btlaw.com Phone:202-289-1313		
----------------------	--	--	--

**Registration Subject to Cancellation**

Registration No	4582608	Registration date	08/12/2014
Registrant	Brasil Beverages Industria e Comercio Ltda. Av. Carlos Gomes, 1839 Porto Alegre, 90480-005 BRAZIL		

**Goods/Services Subject to Cancellation**

Class 032. First Use: 2010/08/10 First Use In Commerce: 2013/01/22 All goods and services in the class are cancelled, namely: Aloe vera drinks, Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements, Bottled drinking water, Drinking water, Drinkingwater with vitamins, Energy drinks, Fruit drinks, Fruit drinks and fruit juices, Fruit flavored drinks, Guarana drinks,Isotonic drinks, Isotonic non-alcoholicdrinks, Soft drinks flavored with tea, Vegetable drinks, all of the foregoing made with organic ingredients
---

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	4641419	Application Date	11/29/2005
Registration Date	11/18/2014	Foreign Priority Date	NONE
Word Mark	O ORGANICS		

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	<p>Class 029. First use: First Use: 2007/03/10 First Use In Commerce: 2007/03/10  Peanut butter, fruit preserves, milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, applesauce, canned whole tomatoes, canned diced tomatoes, tomato paste, processed beans, namely, black beans, pinto beans, kidney beans and garbanzo beans, chicken broth, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden salads, extra virgin olive oil, baby peeled carrots, all being organic</p> <p>Class 030. First use: First Use: 2007/03/09 First Use In Commerce: 2007/03/09  Cold breakfast cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, pretzels, pretzel rods, cheese flavored snacks, namely, cheese flavored puffed corn and rice snacks, cheese curls, corn tortilla chips, microwave popcorn, balsamic vinegar, salad dressings, mustard, maple syrup; tea, beverages made of tea, coffee, flavored coffee, ice cream, macaroni and cheese, pasta, pasta sauces, namely, marinara, tomato basil, roasted garlic, and mushroom marinara; salsa, chocolate truffles, semi-sweet chocolate baking chips, tomato sauce, frozen entrees, namely, blackbean enchiladas, bean and cheese burritos, cheese enchiladas, macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese quesadillas, all being organic</p> <p>Class 031. First use: First Use: 2006/07/09 First Use In Commerce: 2006/07/09  Fresh fruit, fresh vegetables, all being organic</p> <p>Class 032. First use: First Use: 2007/03/08 First Use In Commerce: 2007/03/08  Fruit-flavored juices, namely, cocktail cranberry cocktail, apple juice, blueberry juice, orange juice, grape juice, lemonade, berry punch, all being organic</p>
----------------	---

U.S. Registration No.	3298515	Application Date	03/24/2005
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	O ORGANICS		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: First Use: 2007/03/10 First Use In Commerce: 2007/03/10  Semi-sweet chocolate baking chips, peanut butter, fruit preserves, flavored and unflavored soy beverages used as a milk substitute, milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, apple sauce, canned whole tomatoes, canned diced tomatoes, tomato paste, processed black beans, processed pinto beans, processed kidney beans, processed garbanzo beans, chicken broth, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden salads, extra virgin olive oil</p> <p>Class 030. First use: First Use: 2007/03/09 First Use In Commerce: 2007/03/09  Chocolate truffles, tomato sauce, frozen entrees, namely, black bean enchiladas, bean and cheese burritos, cheese enchiladas, macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese quesadillas, cold breakfast cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, pretzels, pretzel rods, cheese puffs, cheese curls, corn tortilla chips, microwave popcorn, balsamic vinegar, salad dressings, mustard, maple syrup; tea, beverages made of tea, coffee, flavored coffee, ice cream, macaroni and cheese, pasta, pasta sauces, namely, marinara, tomato basil, roasted garlic, and mushroom; salsa</p> <p>Class 031. First use: First Use: 2006/07/09 First Use In Commerce: 2006/07/09  Fresh fruit, fresh vegetables, fresh baby peeled carrots</p> <p>Class 032. First use: First Use: 2007/03/08 First Use In Commerce: 2007/03/08  Fruit-flavored juices, namely, cranberry juice cocktail, apple juice, blueberry juice, orange juice, grape juice, lemonade, berry punch</p>
Attachments	78762988#TMSN.png( bytes ) 76634293#TMSN.png( bytes ) 60528-Canc-ORGANIQUE (3).pdf(2465545 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	/jsw/
Name	Jordan S. Weinstein, Esquire
Date	02/03/2015

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

_____	)	
Safeway Inc.	)	
5918 Stoneridge Mall Road	)	
Pleasanton CA 94588	)	
	)	Cancellation No. _____
Petitioner,	)	Registration No. 4,582,608
	)	Mark: ORGANIQUE (stylized)
v.	)	
	)	
Brasil Beverages Industria e Comercio Ltda.,	)	
Av. Carlos Gomes, 1839	)	
Porto Alegre, 90480-005	)	
Brazil	)	
	)	
Respondent.	)	

**PETITION FOR CANCELLATION**

SAFEWAY INC., a corporation duly organized and existing under the laws of the State of Delaware, with a principal place of business at 5918 Stoneridge Mall Road, Pleasanton, California 94588, (hereinafter “Petitioner”), 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 alleges:

1. Brasil Beverages Industria e Comercio Ltda. (hereinafter, “Respondent”) is the record owner of U.S. Registration No. 4,582,608 for the mark ORGANIQUE (stylized), pictured below, for use on “Aloe vera drinks, Beauty beverages, namely, fruit juices and energy drinks

containing nutritional supplements, Bottled drinking water, Drinking water, Drinking water with vitamins, Energy drinks, Fruit drinks, Fruit drinks and fruit juices, Fruit flavored drinks, Guarana drinks, Isotonic drinks, Isotonic non-alcoholic drinks, Soft drinks flavored with tea, Vegetable drinks, all of the foregoing made with organic ingredients” in International Class 32 (the “Registration” or the “ORGANIQUE Mark”).



2. Commencing long prior to Respondent’s claimed date of first use in commerce of January 22, 2013, and long prior to Respondent’s claimed date of first use anywhere of August 10, 2010, Petitioner has engaged, and is now engaged in the advertising, promotion and sale of a wide range of organic grocery products under its O ORGANICS and O ORGANICS (stylized) marks (hereinafter sometimes referred to as “Petitioner’s Marks” or “Petitioner’s O ORGANICS Marks”).

3. Commencing long prior to Respondent’s priority date, Petitioner has engaged, and is now engaged in the distribution, sale, advertising, and selling in interstate commerce of a variety of food products, including fruit juices, sold under Petitioner’s O ORGANICS Marks throughout Petitioner’s grocery stores.

4. Petitioner owns, and will rely upon pursuant to Trademark Rule 2.122(d), the following Federal trademark registrations of Petitioner’s Marks:

<u>Mark</u>	<u>Reg. No.</u>	<u>Issued</u>	<u>Goods/Services</u>
O ORGANICS	4,641,419	November 18, 2014	<p>Class 29. Peanut butter, fruit preserves, milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, applesauce, canned whole tomatoes, canned diced tomatoes, tomato paste, processed beans, namely, black beans, pinto beans, kidney beans and garbanzo beans, chicken broth, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden salads, extra virgin olive oil, baby peeled carrots, all being organic.</p> <p>Class 30. Cold breakfast cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, pretzels, pretzel rods, cheese flavored snacks, namely, cheese flavored puffed corn and rice snacks, cheese curls, corn tortilla chips, microwave popcorn, balsamic vinegar, salad dressings, mustard, maple syrup; tea, beverages made of tea, coffee, flavored coffee, ice cream, macaroni and cheese, pasta, pasta sauces, namely, marinara, tomato basil, roasted garlic, and mushroom marinara; salsa, chocolate truffles, semi-sweet chocolate baking chips, tomato sauce, frozen entrees, namely, black bean enchiladas, bean and cheese burritos, cheese enchiladas, macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese quesadillas, all being organic.</p> <p>Class 31. Fresh fruit, fresh vegetables, all being organic.</p>

<u>Mark</u>	<u>Reg. No.</u>	<u>Issued</u>	<u>Goods/Services</u>
			Class 32. Fruit-flavored juices, namely, cocktail cranberry cocktail, apple juice, blueberry juice, orange juice, grape juice, lemonade, berry punch, all being organic.
	3,298,515	September 25, 2007	<p>Class 29. Semi-sweet chocolate baking chips, peanut butter, fruit preserves, flavored and unflavored soy beverages used as a milk substitute, milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, apple sauce, canned whole tomatoes, canned diced tomatoes, tomato paste, processed black beans, processed pinto beans, processed kidney beans, processed garbanzo beans, chicken broth, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden salads, extra virgin olive oil.</p> <p>Class 30. Chocolate truffles, tomato sauce, frozen entrees, namely, black bean enchiladas, bean and cheese burritos, cheese enchiladas, macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese quesadillas, cold breakfast cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, pretzels, pretzel rods, cheese puffs, cheese curls, corn tortilla chips, microwave popcorn, balsamic vinegar, salad dressings, mustard, maple syrup; tea, beverages made of tea, coffee, flavored coffee, ice cream, macaroni and cheese, pasta, pasta sauces, namely, marinara, tomato basil, roasted garlic, and mushroom; salsa.</p>

<u>Mark</u>	<u>Reg. No.</u>	<u>Issued</u>	<u>Goods/Services</u>
			<p>Class 31. Fresh fruit, fresh vegetables, fresh baby peeled carrots.</p> <p>Class 32. Fruit-flavored juices, namely, cranberry juice cocktail, apple juice, blueberry juice, orange juice, grape juice, lemonade, berry punch.</p>

5. The above registrations for Petitioner’s O ORGANICS Marks are valid and subsisting. Registration No. 4,641,419 is *prima facie* evidence of Petitioner’s exclusive right to use said mark in connection with the goods specified in said registration. Registration No. 3,298,515 is conclusive evidence of Petitioner’s exclusive right to use said mark in connection with the goods specified in said registration. Pursuant to Trademark Rule 2.122(d) and TBMP § 317, copies of the USPTO’s TSDR database records showing the status and title of the above registrations are attached as Exhibit 1.

6. Petitioner will also rely on its common law rights in its O ORGANICS Marks.

7. Upon information and belief, notwithstanding Petitioner’s rights in and to Petitioner’s O ORGANICS Marks, on February 20, 2013, Respondent filed an application pursuant to both Sections 1(A) and 1(B) of the Trademark Act, 15 U.S.C. §1051(a) & (b), for registration of the ORGANIQUE Mark for “Beverages with a tea base; Fruit teas; Herbal infusions; Herbal tea; Iced tea; Instant tea; Tea; Tea bags in International Class 30” (Section 1(A) basis); “Aloe vera drinks; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Bottled drinking water; Drinking water; Drinking water with vitamins; Energy drinks; Fruit drinks; Fruit drinks and fruit juices; Fruit flavored drinks;

Guarana drinks; Isotonic drinks; Isotonic non-alcoholic drinks; Soft drinks flavored with tea; Vegetable drinks, in International Class 32,” (Section 1(A) basis); and “Alcoholic beverages except beers; Alcoholic beverages, namely, cocktails; Wines in International Class 33” (Section 1(B) basis) and was assigned Serial No. 85/854,681.

8. Upon information and belief, after the USPTO found Respondent’s specimen to be unacceptable for the International Class 30 items, Respondent deleted those goods and that International Class from the application.

9. Upon information and belief, Respondent’s application for the ORGANIQUE Mark was published in the *Official Gazette* of October 22, 2013, at Page TM 292.

10. Upon information and belief, subsequent to the issuance of the Notice of Allowance, Respondent deleted the Class 33 goods and the Section 1(B) basis, with the resulting Registration, issued on August 12, 2014, only covering the Class 32 beverages, including fruit drinks and fruit juices.

11. Upon information and belief, Respondent did not use its ORGANIQUE mark on any products sold in United States commerce prior to January 22, 2013.

12. Upon information and belief, Respondent did not use its ORGANIQUE mark on any products sold in United States commerce prior to March 8, 2007.

13. The design portion of Respondent’s ORGANIQUE mark resembles the letter O, making the commercial impression of Respondent’s Mark “O ORGANIQUE,” which is nearly identical, in sound, commercial impression and appearance to Petitioner’s O ORGANICS mark.

14. As noted in the Registration, the English translation of “organique” is “organic.”

15. Both Petitioner and Respondent have disclaimed the “organics” and “organique” portions of their respective marks, leaving the “O” portion of the marks as the dominant and distinguishing feature of each mark.

16. Respondent’s ORGANIQUE Mark is similar to each of Petitioner’s O ORGANICS Marks.

17. Upon information and belief, Registrant’s goods offered under the ORGANIQUE mark are of a kind typically sold in grocery stores.

18. Upon information and belief, Registrant’s goods, including fruit drinks and fruit juices, are identical to, or highly related to, Petitioner’s goods sold under Petitioner’s O ORGANICS Marks, which include fruit juices.

19. Upon information and belief, Respondent’s goods marked with the ORGANIQUE Mark are offered to the same general classes of purchasers who purchase Petitioner’s O ORGANICS products.

20. Respondent’s ORGANIQUE mark so resembles each of Petitioner’s O ORGANICS Marks as to be likely, when used in connection with Respondent’s goods, to cause confusion or mistake or to deceive purchasers, all in violation of Section 2(d) of the Trademark Act, 15 USC §1052(d).

21. Petitioner, upon information and belief, avers that members of the relevant purchasing public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Respondent’s goods marketed under Respondent’s ORGANIQUE Mark, and misled into believing that such goods are offered by, emanate from, or are in some way directly or indirectly associated with or sponsored by Petitioner, to the damage and detriment of Petitioner and its reputation.

WHEREFORE, the Petitioner, SAFEWAY INC., believes and avers that it is and will continue to be damaged by the continued registration of the ORGANIQUE mark as aforesaid, and prays that said U.S. Registration No. 4,582,608 be cancelled, and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner has appointed JORDAN S. WEINSTEIN, a member of the law firm of BARNES & THORNBURG, LLP, and a member of the Bar of the District of Columbia, to prosecute this cancellation proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

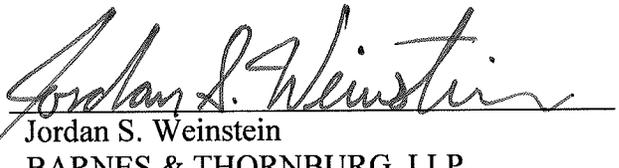
Jordan S. Weinstein, Esquire  
BARNES & THORNBURG, LLP  
1717 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, D.C. 20006

We attach our deposit account payment for the required filing fee for this Petition for Cancellation. The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 02 1010.

Respectfully submitted,

SAFEWAY INC.

By:



Jordan S. Weinstein

BARNES & THORNBURG, LLP

1717 Pennsylvania Avenue, N.W.

Suite 500

Washington, D.C. 20006

(202) 289-1313

fax (202) 2891330

e-mail: [doctetingtm-dc@btlaw.com](mailto:doctetingtm-dc@btlaw.com)

[jweinstein@btlaw.com](mailto:jweinstein@btlaw.com)

Counsel for Petitioner

Dated:

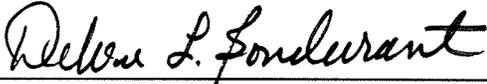
JSW/dlb

2/3/2015

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to Trademark Rule 2.111, a true copy of the foregoing **PETITION FOR CANCELLATION** was served on Respondent's appointed domestic representative as identified by the records of the U.S. Patent and Trademark Office this 3<sup>rd</sup> day of February, 2015, by sending same via First Class mail, postage prepaid, to:

Laurel V. Dineff  
Dineff Trademark Law Limited  
160 N Wacker Dr.  
Chicago, Illinois 60606-1633  
UNITED STATES  
tmlaw@dineff.com

  
\_\_\_\_\_  
Debra L. Bondurant

# **Exhibit 1**

**STATUS**

**DOCUMENTS**

[Back to Search](#)



Print

**Generated on:** This page was generated by TSDR on 2015-01-28 16:11:01 EST

**Mark:** O ORGANICS

# O ORGANICS

**US Serial Number:** 78762988

**Application Filing Date:** Nov. 29, 2005

**US Registration Number:** 4641419

**Registration Date:** Nov. 18, 2014

**Register:** Principal

**Mark Type:** Trademark

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

**Status Date:** Nov. 18, 2014

**Publication Date:** Feb. 15, 2011

**Notice of Allowance Date:** Apr. 29, 2014

## ▲ **Mark Information**

## ● **Goods and Services**

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Peanut butter, fruit preserves, milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, and tomatoes, canned diced tomatoes, tomato paste, processed beans, namely, black beans, pinto beans, kidney beans, chicken broth, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden of eatin' baby peeled carrots, all being organic

**International Class(es):** 029 - Primary Class

**U.S Class(es):** 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Mar. 10, 2007

**Use in Commerce:** Mar. 10, 2007

**For:** Cold breakfast cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, flavored snacks, namely, cheese flavored puffed corn and rice snacks, cheese curls, corn tortilla chips, and vinegar, salad dressings, mustard, maple syrup; tea, beverages made of tea, coffee, flavored coffee, ice cream, pasta, pasta sauces, namely, marinara, tomato basil, roasted garlic, and mushroom marinara; salsa, chocolate baking chips, tomato sauce, frozen entrees, namely, black bean enchiladas, bean and cheese macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese

**International Class(es):** 030 - Primary Class

**U.S Class(es):** 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Mar. 09, 2007

**Use in Commerce:** Mar. 09, 2007

**For:** Fresh fruit, fresh vegetables, all being organic

**International Class(es):** 031 - Primary Class

**U.S Class(es):** 001, 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 09, 2006

**Use in Commerce:** Jul. 09, 2006

**For:** Fruit-flavored juices, namely, cocktail cranberry cocktail, apple juice, blueberry juice, orange juice, grape all being organic

**International Class(es):** 032 - Primary Class

**U.S Class(es):** 045, 046, 048

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Mar. 08, 2007

**Use in Commerce:** Mar. 08, 2007

▲ **Basis Information (Case Level)**

■ **Current Owner(s) Information**

**Owner Name:** Safeway Inc.

**Owner Address:** 5918 Stoneridge Mall Road  
Pleasanton, CALIFORNIA 94588  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

■ **Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Jordan S. Weinstein

**Attorney Primary Email Address:** [tmocket@oblon.com](mailto:tmocket@oblon.com)

**Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** JORDAN S WEINSTEIN  
BARNES & THORNBURG LLP  
1717 PENNSYLVANIA AVENUE NW  
SUITE 500  
WASHINGTON, DISTRICT OF COLUMBIA 20006  
UNITED STATES

**Phone:** 202-289-1313

**Fax:** 202-289-1330

**Correspondent e-mail:** [jweinstein@btlaw.com](mailto:jweinstein@btlaw.com) [docketingtm-dc@btlaw.com](mailto:docketingtm-dc@btlaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

- ▲ **Prosecution History**
  - ▲ **TM Staff and Location Information**
  - **Assignment Abstract Of Title Information - None recorded**
  - ▲ **Proceedings - Click to Load**
-

STATUS

DOCUMENTS

[Back to Search](#)

Print

**Generated on:** This page was generated by TSDR on 2015-02-03 13:30:32 EST**Mark:** O ORGANICS**US Serial Number:** 76634293**Application Filing Date:** Mar. 24, 2005**US Registration Number:** 3298515**Registration Date:** Sep. 25, 2007**Register:** Principal**Mark Type:** Trademark**Status:** The Trademark Trial and Appeal Board has terminated a cancellation proceeding. For further information Trademark Trial and Appeal Board web page.**Status Date:** Mar. 19, 2014**Publication Date:** Mar. 06, 2007**Notice of Allowance Date:** May 29, 2007**Mark Information**[Collapse All](#)**Mark Literal Elements:** O ORGANICS**Standard Character Claim:** No**Mark Drawing Type:** 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)**Color Drawing:** Yes**Color(s) Claimed:** The color(s) orange, yellow, green, blue and white is/are claimed as a feature of the mark.**Color Location:** The color orange appears on the left side of the O. The color yellow appears in the center of the O. The color green appears on the right side of the O. The color blue appears in the O. The color black appears in the rectangle behind the term ORGANICS.**Disclaimer:** "ORGANICS"**Design Search Code(s):** 26.11.21 - Rectangles that are completely or partially shaded**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

**For:** Semi-sweet chocolate baking chips, peanut butter, fruit preserves, flavored and unflavored soy beverage milk, soy milk, yogurt, fruit flavored low fat yogurt, cheese, butter, eggs, apple sauce, canned whole toma

	tomato paste, processed black beans, processed pinto beans, processed kidney beans, processed garbanzo beans, vegetable broth, frozen French fried potatoes, frozen fruit, frozen vegetables, garden salads, extra virgin olive oil	
<b>International Class(es):</b>	029 - Primary Class	<b>U.S Class(es):</b> 046
<b>Class Status:</b>	ACTIVE	
<b>Basis:</b>	1(a)	
<b>First Use:</b>	Mar. 10, 2007	<b>Use in Commerce:</b> Mar. 10, 2007

<b>For:</b>	Chocolate truffles, tomato sauce, frozen entrees, namely, black bean enchiladas, bean and cheese burrito, macaroni and cheese dinner, cheese ravioli, wild mushroom and cheese ravioli, cheese lasagna, cheese cereal, hot breakfast cereal, instant oatmeal, bread, cookies, graham crackers, crackers, pretzels, pretzel curls, corn tortilla chips, microwave popcorn, balsamic vinegar, salad dressings, mustard, maple syrup; tea, coffee, flavored coffee, ice cream, macaroni and cheese, pasta, pasta sauces, namely, marinara, tomato mushroom; salsa	
<b>International Class(es):</b>	030 - Primary Class	<b>U.S Class(es):</b> 046
<b>Class Status:</b>	ACTIVE	
<b>Basis:</b>	1(a)	
<b>First Use:</b>	Mar. 09, 2007	<b>Use in Commerce:</b> Mar. 09, 2007

<b>For:</b>	Fresh fruit, fresh vegetables, fresh baby peeled carrots	
<b>International Class(es):</b>	031 - Primary Class	<b>U.S Class(es):</b> 001, 046
<b>Class Status:</b>	ACTIVE	
<b>Basis:</b>	1(a)	
<b>First Use:</b>	Jul. 09, 2006	<b>Use in Commerce:</b> Jul. 09, 2006

<b>For:</b>	Fruit-flavored juices, namely, cranberry juice cocktail, apple juice, blueberry juice, orange juice, grape juice	
<b>International Class(es):</b>	032 - Primary Class	<b>U.S Class(es):</b> 045, 046, 048
<b>Class Status:</b>	ACTIVE	
<b>Basis:</b>	1(a)	
<b>First Use:</b>	Mar. 08, 2007	<b>Use in Commerce:</b> Mar. 08, 2007

**▾ Basis Information (Case Level)**

<b>Filed Use:</b>	No	<b>Currently Use:</b>	Yes	<b>Amended:</b>	Amended
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	No	<b>Amended:</b>	Amended
<b>Filed 44D:</b>	No	<b>Currently 44D:</b>	No	<b>Amended:</b>	Amended
<b>Filed 44E:</b>	No	<b>Currently 44E:</b>	No	<b>Amended:</b>	Amended
<b>Filed 66A:</b>	No	<b>Currently 66A:</b>	No	<b>Amended:</b>	Amended
<b>Filed No Basis:</b>	No	<b>Currently No Basis:</b>	No	<b>Amended:</b>	Amended

**▾ Current Owner(s) Information**

<b>Owner Name:</b>	SAFEWAY INC.
--------------------	--------------

<b>Owner Address:</b>	5918 Stoneridge Mall Road Pleasanton, CALIFORNIA 94588 UNITED STATES		
<b>Legal Entity Type:</b>	CORPORATION	<b>State or Country Where Organized:</b>	DELAWARE

### Attorney/Correspondence Information

#### Attorney of Record

<b>Attorney Name:</b>	Jordan S. Weinstein	<b>Docket Number:</b>	60528-553414
<b>Attorney Primary Email Address:</b>	<a href="mailto:docketingtm-dc@btlaw.com">docketingtm-dc@btlaw.com</a>	<b>Attorney Email Authorized:</b>	Yes

#### Correspondent

<b>Correspondent Name/Address:</b>	Jordan S. Weinstein Barnes & Thornburg, LLP 1717 Pennsylvania Avenue, NW SUITE 500 WASHINGTON, DISTRICT OF COLUMBIA 20006 UNITED STATES		
<b>Phone:</b>	202-289-1313	<b>Fax:</b>	202-289-1330
<b>Correspondent e-mail:</b>	<a href="mailto:docketingtm-dc@btlaw.com">docketingtm-dc@btlaw.com</a> <a href="mailto:jweinstein@btlaw.com">jweinstein@btlaw.com</a>	<b>Correspondent e-mail Authorized:</b>	Yes

#### Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Mar. 25, 2014	SEC. 15 ACKNOWLEDGEMENT - E-MAILED	
Mar. 25, 2014	REGISTERED - SEC. 15 ACKNOWLEDGED	75184
Mar. 19, 2014	REGISTERED - SEC. 15 AFFIDAVIT FILED	75184
Mar. 19, 2014	TEAS SECTION 15 RECEIVED	
Mar. 19, 2014	TTAB RELEASE CASE TO TRADEMARKS	53183
Mar. 19, 2014	CANCELLATION TERMINATED NO. 999999	53183
Sep. 29, 2013	POST REGISTRATION ACTION MAILED - SEC. 8 & 15	75184
Aug. 23, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75184
Aug. 07, 2013	TEAS SECTION 8 & 15 RECEIVED	
Oct. 26, 2010	CANCELLATION INSTITUTED NO. 999999	53183
Sep. 25, 2007	REGISTERED-PRINCIPAL REGISTER	
Aug. 17, 2007	LAW OFFICE REGISTRATION REVIEW COMPLETED	78289
Aug. 15, 2007	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	

Aug. 09, 2007	STATEMENT OF USE PROCESSING COMPLETE	76537
Jun. 14, 2007	USE AMENDMENT FILED	76537
Jun. 14, 2007	PAPER RECEIVED	
May 29, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 06, 2007	PUBLISHED FOR OPPOSITION	
Feb. 14, 2007	NOTICE OF PUBLICATION	
Jan. 19, 2007	EXAMINERS AMENDMENT MAILED	
Jan. 19, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	78289
Jan. 18, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 18, 2007	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 18, 2007	EXAMINERS AMENDMENT -WRITTEN	74309
Jan. 12, 2007	AMENDMENT FROM APPLICANT ENTERED	78289
Dec. 07, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	78289
Jan. 12, 2007	ASSIGNED TO LIE	78289
Dec. 07, 2006	PAPER RECEIVED	
Jun. 09, 2006	FINAL REFUSAL MAILED	
Jun. 08, 2006	FINAL REFUSAL WRITTEN	74309
May 17, 2006	AMENDMENT FROM APPLICANT ENTERED	78289
Apr. 24, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	78289
Apr. 24, 2006	PAPER RECEIVED	
Oct. 24, 2005	NON-FINAL ACTION MAILED	
Oct. 23, 2005	NON-FINAL ACTION WRITTEN	74309
Oct. 19, 2005	ASSIGNED TO EXAMINER	74309
Apr. 04, 2005	NEW APPLICATION ENTERED IN TRAM	

### ▾ Maintenance Filings or Post Registration Information

**Affidavit of Incontestability:** Section 15 - Accepted

### ▾ TM Staff and Location Information

**TM Staff Information - None**

#### File Location

**Current Location:** TMO LAW OFFICE 110

**Date in Location:** Mar. 25, 2014

### ▾ Assignment Abstract Of Title Information - None recorded

### ▾ Proceedings

