

ESTTA Tracking number: **ESTTA691736**

Filing date: **08/26/2015**

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	Plus Foods		
Entity	Limited Liability Company	Citizenship	New york
Address	14 E 4th Street New York, NY 10012 UNITED STATES		

Attorney information	Brian R. Gibbons 3936 S. Semoran Blvd., Suite 330 Orlando, FL 32822 UNITED STATES trademarks@briangibbons.com Phone:407-384-6156		
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Registration Subject to Cancellation

Registration No	1996761	Registration date	08/27/1996
Registrant	SAFEWAY INC. 5918 Stoneridge Mall Road Pleasanton, CA 945883229 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 1994/07/21 First Use In Commerce: 1994/07/21 All goods and services in the class are cancelled, namely: soup
Class 030. First Use: 1993/11/16 First Use In Commerce: 1993/11/16 All goods and services in the class are cancelled, namely: cookies; salad dressing, marinades and breakfast cereal

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	enlightened.01.petition to cancel.pdf(96876 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	/Brian Gibbons/
Name	Brian R. Gibbons

Date	08/26/2015
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BRIAN R. GIBBONS, P.A.

Attorney at Law

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Orlando, Florida 32822-4015
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PLUS FOODS,
a New York limited liability company
Petitioner

v.

SAFEWAY INC.,
a Delaware corporation,
Registrant

In the matter of
Registration No. 1996761

For the mark:
ENLIGHTEN

Registered on the Principal Register
On August 27, 1996

Cancellation No. _____

PETITION TO CANCEL

PETITION TO CANCEL

Petitioner, Plus Foods, is a New York limited liability company whose address is 14 E 4th Street, New York, NY 10012.

Registrant, Safeway Inc., is a Delaware corporation whose address of record is 5918 Stoneridge Mall Road, Pleasanton, CA 94588.

Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel such registration.

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The grounds for cancellation are as follows:

1. Registration No. 1996761 was issued on or about August 27, 1996, and identifies the Registrant as Safeway Inc., a Delaware corporation whose address of record is 5918 Stoneridge Mall Road, Pleasanton, CA 94588.
2. Registration No. 1996761 is for use of the trademark ENLIGHTEN in connection with "soup, in International Class 29" and "cookies; salad dressing, marinades and breakfast cereal, in International Class 30".
3. On May 7, 2014, Petitioner filed an application (Serial No. 86273771) to register, on the Principal Register, the ENLIGHTENED mark for its products in International Class 29.
4. The examining attorney assigned to Application Serial No. 86273771 has refused registration of the ENLIGHTENED mark, asserting that the ENLIGHTENED mark so resembles the mark ENLIGHTEN in Registration No. 1996761 as to be likely to cause confusion, to cause mistake, or to deceive.

ABANDONMENT

5. On information and belief, Petitioner avers that Registrant is not presently using and has no intention to use the ENLIGHTEN mark in connection with the products described in Registration No. 1996761.

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Attorney at Law

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6. On information and belief, Petitioner avers that Registrant has not used the ENLIGHTEN mark in connection with the products described in Registration No. 1996761 for at least three years prior to the filing of this Petition.
7. Registrant has abandoned the ENLIGHTEN mark in connection with the products described in Registration No. 1996761.
8. If Registrant is permitted to maintain Registration No. 1996761, Registrant would continue to have at least a prima facie exclusive right to the use of the mark ENLIGHTEN in connection with such products, and said Registration may preclude Petitioner from registering the trademark ENLIGHTENED on the Principal Register and obtaining the accompanying protection available to Petitioner. Registration No. 1996761 would thus be a source of damage and injury to Petitioner.
9. If Registration No. 1996761 is cancelled, a likelihood of confusion will no longer exist between Registrant's ENLIGHTEN mark and Petitioner's ENLIGHTENED mark.

WHEREFORE, Petitioner prays that Registration No. 1996761 be cancelled.

The required fee under 37 C.F.R. §2.6(a)(16) is enclosed herewith.

Petitioner has appointed Brian R. Gibbons, an attorney admitted to practice before the Supreme Court of the State of Florida, whose principal office is located at 3936 S. Semoran Blvd., Suite 330, Orlando, Florida 32822, as its duly authorized agent and attorney in the matter of this cancellation, with full power of substitution and revocation, to transact all business with the Patent and Trademark Office and elsewhere in the United

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Attorney at Law

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States courts in connection with this cancellation, to sign all papers which may be hereinafter filed in connection with this cancellation, and to receive all communications relating to this cancellation.

Respectfully submitted,



Brian R. Gibbons
Attorney for Petitioner

08/26/2015
Date

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Orlando, FL 32822
Phone: (407) 384-6156
Fax: (407) 384-2601

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Safeway Inc., 5918 Stoneridge Mall Road, Pleasanton, CA 94588 this 26th day of August, 2015.



Brian R. Gibbons
Attorney for Petitioner

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