

ESTTA Tracking number: **ESTTA719072**

Filing date: **01/07/2016**

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	Bumble Bee Foods, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	280 10th Avenue San Diego, CA 92101 UNITED STATES		

Attorney information	Ben T. Lila MANDOUR & ASSOCIATES, APC 8605 Santa Monica Blvd., Suite 1500 Los Angeles, CA 90069 UNITED STATES blila@mandourlaw.com,jmandour@mandourlaw.com,ggray@mandourlaw.com Phone:8584879300		
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Registrations Subject to Cancellation

Registration No	1610205	Registration date	08/14/1990
International Registration No.	NONE	International Registration Date	NONE
Registrant	JOLLIBEE FOODS CORPORATION 51F JOLLIBEE CENTER METRO MANILLA, PHILIPPINES		

Goods/Services Subject to Cancellation

Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: RESTAURANT SERVICES
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Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	4426087	Registration date	10/29/2013
Registrant	Jollibee Foods Corporation 7th Floor, Jollibee Plaza Building Pasig City, 1600 PHILIPPINES		

Goods/Services Subject to Cancellation

Class 029. First Use: 1976/10/01 First Use In Commerce: 2006/10/03 All goods and services in the class are cancelled, namely: Beef, fish, poultry; milk; fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of meat, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of fish, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of

poultry, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of game, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of seafood, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of eggs, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of vegetables, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of edible fats, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of edible oil; fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of dairy products, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of nuts in the nature of processed nuts, roasted nuts, seasoned nuts, shelled nuts, and flavored nuts

Class 043. First Use: 1976/10/01 First Use In Commerce: 2006/10/03
 All goods and services in the class are cancelled, namely: Services for providing food and drink; restaurant services

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	581074	Application Date	01/13/1953
Registration Date	10/13/1953	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1951/09/04 First Use In Commerce: 1951/09/04 CANNED [, FRESH, AND FRESH FROZEN] FISH		
U.S. Registration No.	2924759	Application Date	09/02/2003

Registration Date	02/08/2005	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1998/12/31 First Use In Commerce: 1998/12/31 Seafood - namely, canned shrimp, crab, [oysters, tuna,] * and * salmon [, sturgeon, and shad road; and frozen shrimband crab]		
U.S. Registration No.	3652458	Application Date	07/14/2008
Registration Date	07/07/2009	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a bee wearing a striped shirt and a chef's hat.
Goods/Services	Class 029. First use: First Use: 2008/08/02 First Use In Commerce: 2008/08/02 Cooked meat, namely, tuna, chicken, ham, [turkey, beef,] salmon, shrimp, crab, oysters, [sturgeon, albacore, sausages,] soups, [chili, stew, beef broth,] clams, and sardines [, mackerel, processed anchovies, chicken broth, chicken and dumplings, and tuna and cracker combinations]

Attachments	71640671#TMSN.png(bytes) 76544997#TMSN.png(bytes) 77521988#TMSN.png(bytes) Petition to Cancel Jollibee 01-07-16.pdf(91955 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	/Ben T. Lila/
Name	Ben T. Lila
Date	01/07/2016

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

In the matter of Registration Nos. 1,610,205 and 4,426,087 registered on August 14, 1990 and October 29, 2013 respectively.

Bumble Bee Foods, LLC,)	
)	
Petitioner,)	Cancellation No. _____
)	
v.)	
)	
Jollibee Foods Corporation,)	
)	
Registrant.)	
_____)	

PETITION TO CANCEL

Petitioner, Bumble Bee Foods, LLC (“Bumble Bee”), a Delaware Limited Liability Company, having a business address of 280 10th Avenue, San Diego, CA 92101, believes that it is being damaged by U.S. Trademark Registration Nos. 1,610,205 and 4,426,087 and hereby petitions to cancel the same under the provisions of 15 U.S.C. § 1064. As grounds therefor, it is alleged that:

1. Petitioner Bumble Bee is the registrant of U.S. Trademark Registration Nos. 581,074, 2,924,759, and 3,652,458 for various designs comprising an image of a bee in a chef’s hat (the “Bumble Bee Chef Designs”.)

2. Petitioner has used an image of a bee in a chef’s hat continuously in interstate commerce since at least as early as 1951 in connection with various goods and services, including without limitation food products.

3. Registrant Jollibee Foods Corporation (“Jollibee”) is the assignee and/or registrant of U.S. Trademark Reg. Nos. 1,610,205 and 4,426,087 for two designs comprising an image of a

bee in a chef's hat (the "Jollibee Bee Chef Designs").

4. Registrant's U.S. Trademark Reg. No. 1,610,205 is registered in international class 042 for "restaurant services."

5. Registrant's U.S. Trademark Reg. No. 4,426,087 is registered in international class 029 for:

"Beef, fish, poultry; milk; fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of meat, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of fish, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of poultry, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of game, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of seafood, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of eggs, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of vegetables, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of edible fats, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of edible oil; fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of dairy products, fast food products, namely, frozen, prepared, or packaged meals and entrees consisting primarily of nuts in the nature of processed nuts, roasted nuts, seasoned nuts, shelled nuts, and flavored nuts"

and in international class 043 for "Services for providing food and drink; restaurant services."

6. On information and belief, registrant Jollibee did not make use of any Jollibee Bee Chef Design prior to 1989, several years after any use by petitioner of any Bumble Bee Bee Chef design. As such, petitioner has priority and senior use over registrant of any bee in a chef's hat design.

7. The subsequent use of the Jollibee Bee Chef design mark in U.S. Trademark Registration Nos. 1,610,205 and 4,426,087 is likely to cause confusion with petitioner's Bumble Bee Chef Designs trademarks. Petitioner thus seeks to cancel the registrations pursuant to 15 U.S.C. § 1052(d).

8. On information and belief, petitioner alleges that registrant did not use the trademark for all goods and services alleged in Registration Nos. 1,610,205 and 4,426,087. Because registrant did not use the claimed trademark for all goods alleged in Registration Nos. 1,610,205 and 4,426,087, petitioner thus seeks to cancel the registrations.

9. On information and belief, petitioner alleges that registrant ceased all use of and abandoned one or both of the Jollibee Bee Chef Designs for some or all of the claimed goods and services in Registration Nos. 1,610,205 and 4,426,087. Petitioner further alleges that registrant has no intent to continue use of one or both of the Jollibee Bee Chef Designs for all goods and services described in said registrations. Because registrant has ceased and abandoned all use of any Jollibee Bee Chef Designs for the alleged goods and services, petitioner seeks to cancel the registrations pursuant to 15 U.S.C. § 1064(3).

10. Furthermore, petitioner believes that registrant's maintenance of the Jollibee Bee Chef Designs trademark registrations will result in financial and other injury and damage to petitioner in its business because registrant will have a false claim of rights to the trademarks. Moreover, petitioner's continued and legal use of its Bumble Bee Chef Designs will be impaired by the continued registrations of the Jollibee Bee Chef Designs by registrant.

11. By reason of the foregoing, petitioner believes that it will be damaged by registrant's registration of the trademarks and prays that this petition be sustained and U.S. Trademark Registration Nos. 1,610,205 and 4,426,087 be cancelled.

12. To the best of petitioner's knowledge, the name and address of the current registrant of U.S. Trademark Registration Nos. 1,610,205 and 4,426,087 is as follows:

Jollibee Foods Corporation
7th Floor, Jollibee Plaza
Building 10 F. Ortigas Jr. Avenue
Pasig City, PHILIPPINES 1600

WHEREFORE, Petitioner requests that U.S. Trademark Registration Nos. 1,610,205 and 4,426,087 be cancelled and for such other and further relief as may be deemed proper.

Date: January 7, 2016

By: Ben T. Lila
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