

ESTTA Tracking number: **ESTTA777983**

Filing date: **10/20/2016**

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

Proceeding	92063063
Party	Defendant Jollibee Foods Corporation
Correspondence Address	LESLIE BERTAGNOLLI BAKER & MCKENZIE LLP 300 E RANDOLPH STREET SUITE 5000 CHICAGO, IL 60601-5014 UNITED STATES john.filosa@bakermckenzie.com, judy.krason@bakermckenize.com, leslie.bertagnolli@bakermckenzie.com, chiusptomail@bakermckenzie.com
Submission	Motion to Extend
Filer's Name	John Filosa
Filer's e-mail	john.filosa@bakermckenzie.com, leslie.bertagnolli@bakermckenzie.com, judy.krason@bakermckenzie.com
Signature	/John Filosa/
Date	10/20/2016
Attachments	Registrants Motion to Extend.pdf(313918 bytes)

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

In the matter of Registration No. 4,426,087 registered on October 29, 2013

Bumble Bee Foods, LLC,)	
)	
Petitioner,)	Cancellation No. 92063063
)	
v.)	
)	
Jollibee Foods Corporation,)	
)	
Registrant.)	

REGISTRANT'S MOTION TO EXTEND

Registrant Jollibee Foods Corporation ("Jollibee") for its motion pursuant to Federal Rule of Civil Procedure 6(b)(1)(A) and TBMP § 509.01(a) to extend all outstanding dates and deadlines in the current discovery, testimony, and trial schedule, including the deadline for responses to outstanding discovery, states as follows:

1. In this Cancellation filed on January 7, 2016, Bumble Bee Foods, LLC ("Bumble Bee") is seeking to cancel Jollibee's Registration No. 4426087 on the basis of abandonment and likelihood of confusion. Despite the incontestable nature of Jollibee Registration No. 3152057, at various times during the course of these cancellation proceedings, Bumble Bee has insisted that Jollibee surrender its incontestable trademark rights and cancel Registration No. 3152057.

2. Jollibee answered the cancellation and the parties have engaged in efforts to settle this cancellation. In connection with these settlement discussions, Jollibee raised the issue of whether Bumble Bee's Registration No. 4693506 and Registration No. 4892597 should be subject to cancellation on the basis of likelihood of confusion with Jollibee's Registration No. 3152057 and Registration No. 4426087.

3. Most recently, the parties suspended the proceedings to continue settlement discussions. 9 TTABVUE. The suspension expired on September 23, 2016, and the proceedings resumed on September 24, 2016. 10 TTABVUE. The Board's order granting the suspension indicated that "The parties are allowed THIRTY DAYS from resumption in which to serve responses to any outstanding discovery requests." 10 TTABVUE.

4. Because the parties have been unable to resolve the issues related to the registrations outlined in paragraphs 1 and 2 above, on October 18, 2016, Jollibee filed a cancellation action seeking to cancel Bumble Bee's Registration No. 4693506 and Registration No. 4892597 on the basis of likelihood of confusion with Jollibee's Registration No. 3152057 and Registration No. 4426087. See Exhibit 1, the October 18, 2016 filing receipt for the cancellation. To date this cancellation action has not appeared or been docketed on TTABVUE.

5. When the cancellation is docketed on TTABVUE and assigned a proceeding number, Jollibee intends to promptly file a motion to consolidate this cancellation action with the newly filed cancellation action.

6. The current schedule in this cancellation action is:

Expert Disclosure Due : 02/04/2017

Discovery Closes : 03/06/2017

Plaintiff's Pretrial Disclosures : 04/20/2017

Plaintiff's 30-day Trial Period Ends : 06/04/2017

Defendant's Pretrial Disclosures : 06/19/2017

Defendant's 30-day Trial Period Ends : 08/03/2017

Plaintiff's Rebuttal Disclosures : 08/18/2017

Plaintiff's 15-day Rebuttal Period Ends : 09/17/2017

9 and 10 TTABVUE.

7. Bumble Bee served Jollibee with written discovery consisting of interrogatories and a request for production of documents. Responses to these discovery requests are due on October 24, 2016. 10 TTABVUE.

8. Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A) and TBMP § 509.01(a), Jollibee seeks an extension of the current discovery, testimony and trial schedule, including the time for Jollibee to respond to written discovery from Bumble Bee.

9. Because Jollibee has made this request before any of the deadlines or due dates, the extension should be allowed because Jollibee has good cause for the extension sought. Federal Rule of Civil Procedure 6(b)(1)(A) and TBMP § 509.01(a).

10. Good cause exists for granting this extension. An extension of these proceedings will permit the Board to determine whether these proceedings should be consolidated with the cancellation action filed on October 18, 2016 and whether the proceedings will be consolidated for purposes of discovery, testimony, and trial on the same record and briefs. An extension of these proceedings will permit the parties to consider whether further settlement negotiations are warranted based on the allegations against the Bumble Bee registrations in the second cancellation action, would permit discovery to proceed in orderly fashion on all issues and registrations at issue, and will avoid piecemeal discovery, testimony, and briefing.

11. The Board is generally liberal in granting extensions before the period to act has lapsed. *American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313 (TTAB 1992). Jollibee has set forth with particularity the facts that constitute good cause for the requested extension. Further, the requested extension is not made necessary by Jollibee's lack of diligence or

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **REGISTRANT'S MOTION TO EXTEND** was served upon Petitioner via the United States Postal Service as first class mail, with a courtesy copy by email, in an envelope addressed as follows:

Ben T. Lila
Mandour & Associates, APC
8605 Santa Monica Blvd., Suite 1500
Los Angeles, CA 90069
blila@mandourlaw.com

this 20th day of October 2016.

/John C. Filosa/
John C. Filosa

EXHIBIT 1

Filosa, John C

From: estta-server@uspto.gov
Sent: Tuesday, October 18, 2016 12:28 PM
To: Filosa, John C; Bertagnolli, Leslie A; Krason, Judy A
Subject: ESTTA. Petition for Cancellation confirmation receipt ID: ESTTA777379

Petition for Cancellation

Tracking No: ESTTA777379

ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

The Trademark Trial and Appeal Board (Board) has received a filing titled ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS submitted through the Electronic System for Trademark Trials and Appeals (ESTTA). This Notice verifies receipt of the filing and includes an ESTTA Tracking Number.

Unless the filing fails to meet all applicable minimum legal requirements for filing, the Board will not retract the filing or refund any fees paid.

The filing, and any Board proceeding, may be viewed on TTABVue at https://urldefense.proofpoint.com/v2/url?u=http-3A__ttabvue.uspto.gov&d=DQIFAg&c=ptMoEJ5oTofwe4L9tBtGCQ&r=A2ECQTTGtZGtxX2bJr-xW2jNguhBGUmsjvLi_JP4TZw&m=3fHztAQY41xIRbFliiBrOj2KEI9pEdUDW_eDVNEBXZs&s=leP9owI4RJWCXOxKktGy eR3WCFKwT1LYEKgV1jCChLU&e=. Please allow up to two hours for the system to process this filing.

If the filer has a question, or if the filing is not viewable in TTABVue, the TTAB Assistance Center is available at 571-272-8500, Monday to Friday from 8:30 a.m. to 5:00 p.m. Eastern Time (ET), or email at estta@uspto.gov. Please provide your ESTTA Tracking No.

ESTTA server at https://urldefense.proofpoint.com/v2/url?u=http-3A__estta.uspto.gov&d=DQIFAg&c=ptMoEJ5oTofwe4L9tBtGCQ&r=A2ECQTTGtZGtxX2bJr-xW2jNguhBGUmsjvLi_JP4TZw&m=3fHztAQY41xIRbFliiBrOj2KEI9pEdUDW_eDVNEBXZs&s=n7gzl82lwBFi5YUtUm40GItKEIOap_2qp3x7aGiuu_E&e=

ESTTA Tracking number: ESTTA777379
Filing date: 10/18/2016

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: Jollibee Foods Corporation
Entity: Corporation

Citizenship: Philippines
Address: 7th Floor, Jollibee Plaza Building, #10 Emerald Avenue, Ortigas Center
Pasig City, 1600
PHILIPPINES

Attorney information:

John C. Filosa
Baker & McKenzie LLP
300 East Randolph Street, Suite 5000
Chicago, IL 60601
UNITED STATES
john.filosa@bakermckenzie.com, leslie.bertagnolli@bakermckenzie.com, judy.krason@bakermckenzie.com Phone:312-861-6580

Registrations Subject to Cancellation

Registration No: 4693506
Registration Date: 02/24/2015
Registrant:
Bumble Bee Foods, LLC
280 10th Avenue
San Diego, CA 92101
UNITED STATES

Goods/Services Subject for Cancellation

Class 029. First Use: 20140601 First Use In Commerce: 20140731
All goods and services in the class are cancelled, namely: [Broth;] canned cooked meat;[chicken; chicken and dumplings; chowder; clam juice; frozen fish; ham;] processed seafood;[sausages; seafood, namely, tuna, salmon, shrimp, crab, oysters, sturgeon, albacore, clams, sardines, mackerel, anchovies, not live; soups]

Ground for Cancellation:

Priority and likelihood of confusion
Trademark Act Sections 14(1) and 2(d)

Registration No: 4892597
Registration Date: 01/26/2016
Registrant:
Bumble Bee Foods, LLC
280 10th Avenue
San Diego, CA 92101
UNITED STATES

Goods/Services Subject for Cancellation

Class 029. First Use: 20141016 First Use In Commerce: 20141016
All goods and services in the class are cancelled, namely: Packaged entrees consisting primarily of meat, fish, poultry, hummus, vegetables, or vegetable salad
Class 030. First Use: 20141016 First Use In Commerce: 20141016
All goods and services in the class are cancelled, namely: Food package combinations consisting primarily of bread, crackers and/or cookies

Ground for Cancellation:

Priority and likelihood of confusion
Trademark Act Sections 14(1) and 2(d)

Related Proceedings: Cancellation No. 92063063

Marks Cited by Petitioner as Basis for Cancellation
U.S. Registration No.: 3152057

Application Date: 01/12/2005
Registration Date: 10/03/2006
Word Mark: JOLLIBEE

Goods/Services:

Class 043 First Use: 19960801 First Use In Commerce: 19980528

Restaurant services; self-service and fast-food restaurant services, catering services, cafeteria services, and cafe services

U.S. Registration No.: 4426087

Application Date: 01/11/2012

Registration Date: 10/29/2013

Goods/Services:

Class 029 First Use: 19761001 First Use In Commerce: 20061003

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: 19761001 First Use In Commerce: 20061003

Services for providing food and drink; restaurant services

Attachments:

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Petition to Cancel.pdf

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date.

John C. Filosa

/John Filosa/

10/18/2016