

ESTTA Tracking number: **ESTTA736591**

Filing date: **03/29/2016**

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	La Terra Fina USA, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1300 Atlantic Street Union City, CA 94587 UNITED STATES		

Attorney information	Kayla Jimenez and Dana Robinson TechLaw LLP P.O. Box 1416 La Jolla, CA 92038 UNITED STATES kayla@techlawllp.com, dana@techlawllp.com		
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Registration Subject to Cancellation

Registration No	3810927	Registration date	06/29/2010
Registrant	Cormorant Group LLC 204 28th Street Brooklyn, NY 11232 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2006/01/15 First Use In Commerce: 2006/01/15 All goods and services in the class are cancelled, namely: ROASTED NUTS, FLAVORED NUTS, NUT BUTTERS, ROASTED SUNFLOWER AND PUMPKIN SEEDS, FRUIT AND NUT MIXES, NAMELY, TRAIL MIXES DRIED FRUITS
Class 030. First Use: 2006/01/15 First Use In Commerce: 2006/01/15 All goods and services in the class are cancelled, namely: CONFECTIONS, NAMELY, BRITTLES, CRUNCH BARS, CHOCOLATE COVERED NUTS, CHOCOLATE COVERED DRIED FRUIT
Class 031. First Use: 2006/01/15 First Use In Commerce: 2006/01/15 All goods and services in the class are cancelled, namely: RAW NUTS AND RAW SEEDS

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3953482	Application Date	08/23/2006
Registration Date	05/03/2011	Foreign Priority Date	NONE

Word Mark	LA TERRA FINA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 dairy-based dips Class 030. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 pesto sauce, quiches

Attachments	78958194#TMSN.png(bytes) 2016_03_29 TerraFina Petition for Cancellation.pdf(2405864 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	/Kayla Jimenez/
Name	Kayla Jimenez
Date	03/29/2016

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

La Terra Fina USA, Inc.)	
)	
A Delaware Corporation)	
)	Cancellation No.:
Petitioner,)	
)	
v.)	
)	Registration No.: 3810927
Cormorant Group LLC)	Date of Issue: June 29, 2010
)	
A New York Corporation)	
)	
Respondent.)	
_____)	

PETITION FOR CANCELLATION

Petitioner, La Terra Fina USA, Inc. ("Petitioner") hereby petitions to cancel the registration of TERRAFINA (Reg. No. 3810927) on the following grounds:

Petitioner's Business and Petitioner's Mark

1. Petitioner is a Delaware corporation with an address of 1300 Atlantic Street, Union City, California, 94587.

2. Petitioner is engaged in the business of producing, marketing and selling a variety of specialty foods, including quiches, various types of dips and spreads, salads, sauces, and hummus under the trademark LA TERRA FINA ("Petitioner's Mark"). Petitioner has been using the LA TERRA FINA trademark in the United States in connection with its business and the sale of its goods since at least as early as 1991.

3. Since 1991, Petitioner has expended significant time, effort, and money in developing, marketing and building goodwill in its LA TERRA FINA brand. As a result of Petitioner's efforts, Petitioner's Mark is widely recognized by consumers across the United States. Several articles and websites evidencing this fact are attached hereto as Exhibit A.

4. Petitioner's LA TERRA FINA products have also received widespread industry recognition, including the Gold Award at the 1999 Fancy Foods Show, and the 2015 American Graphic Design Award for Petitioner's organic dip products.

5. Consumers throughout the United States identify Petitioner as the source of the goods that are sold under Petitioner's Mark, and Petitioner's Mark is synonymous with Petitioner's identity in the marketplace. Given the foregoing, Petitioner's Mark has become distinctive and famous under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

6. Petitioner is the owner of U.S. Registration No. 3953482 for LA TERRA FINA in Class 29 and 30 for dairy-based dips, pesto sauce and quiches.

7. On September 26, 2015, Petitioner applied for a Principal Registration for its LA TERRA FINA Logo (Serial No. 86769705) in Class 29 and 30 for dairy-based dips, dairy-based spreads, dips, meat-based spreads, snack dips, vegetable-based spreads, and quiche.

Respondent's Business and Respondent's Mark

8. Upon information and belief, Respondent Cormorant Group LLC is a New York limited liability company having a business address at 204 28th Street, Brooklyn, New York 11232 ("Respondent").

9. Respondent is the holder of U.S. Reg. No. 3810927 for TERRAFINA in Class 29 for "roasted nuts, flavored nuts, nut butters, roasted sunflower and pumpkin seeds, fruit and nut mixes, namely, trail mixes dried fruits," in Class 30 for "confections, namely, brittles, crunch

bars, chocolate covered nuts, chocolate covered dried fruit" and in Class 31 for "raw nuts and raw seeds" ("Respondent's Mark").

10. Respondent applied to register Respondent's Mark with the United States Patent and Trademark Office on July 14, 2006, under Section 1(a), claiming a date of first use of January 15, 2006.

11. Upon information and belief, Respondent did not begin using Respondent's Mark until after January 15, 2006.

12. Respondent's Mark was published on November 27, 2007.

13. Petitioner filed an extension to oppose Respondent's Mark on December 27, 2007, and timely filed a notice of opposition March 26, 2008, on the grounds of likelihood of confusion (the "Opposition").

14. Petitioner withdrew the Opposition pursuant to a settlement agreement between Petitioner and Respondent (the "Settlement Agreement").

15. In or about December 2015, Petitioner discovered Respondent had breached the Settlement Agreement. On January 4, 2016, and February 5, 2016, Petitioner sent letters to Respondent notifying Respondent of the breach. Respondent has failed to cure the breach, and thus necessitated this proceeding.

Grounds

16. Since 1991, over 15 years prior to the filing of Respondent's Mark, Petitioner has continuously and exclusively used Petitioner's Mark in commerce in connection with the sale of specialty food products, including quiches, various types of dips and spreads, salads, sauces, and hummus. Petitioner has not abandoned Petitioner's Mark at any time since its first use in 1991. As such, Petitioner has priority over Respondent.

17. Petitioner will be damaged by the continuance of the registration of Respondent's Mark because Petitioner's Mark and Respondent's Mark are similar in appearance, and Petitioner and Respondent offer similar goods. Therefore, there is a likelihood of confusion between the Petitioner's Mark and Respondent's Mark. *See* Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

18. Further, the TTAB is empowered to cancel a registered mark on the basis that it "falsely suggests a connection with persons," which includes juristic persons. 15 U.S.C. §1052(a); *See also University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983). Respondent's Mark is a very close approximation of Petitioner's Mark, and is used on similar goods. Given that consumers across the United States recognize Petitioner as the source of goods bearing Petitioner's Mark, and given that Petitioner's Mark is famous and synonymous with Petitioner's identity in the marketplace, Respondent's use of Respondent's Mark falsely suggests a connection with Petitioner.

WHEREFORE, the Petitioner prays that Registration No. 3810927 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner. The filing fee of \$300 per class this application is enclosed pursuant to CFR §2.11.

Dated: 3/29/2016

Respectfully submitted,

By: /s/ Kayla Jimenez

KAYLA JIMENEZ, ESQ.
P.O. Box 1416
La Jolla, CA 92037
858-952-0998
kayla@techlawllp.com
Attorney for Petitioner

Certificate of Service

I hereby certify that I have on March 29, 2016, served the foregoing:

Petition for Cancellation

via U.S. mail on the following persons(s):

Cormorant Group LLC
204 28th Street
Brooklyn, NEW YORK UNITED STATES 11232

By: /s/ Kayla Jimenez

Kayla Jimenez

Exhibit A



- Beauty & Self
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Sandwiches Site

Connie Mistler Davidson
BellaOnline's [Sandwiches](#) Editor

Chunky Spinach Artichoke & Parmesan Dip Review

After seeing cartons of La Terra Fina's Chunky Spinach Artichoke & Parmesan Dip riding around in carts at my local Costco, I asked a woman about it. Her eyes glazed over as she started to describe how wonderful this dip is. So, I bought a carton and took it home. Made with ingredients that we can all recognize, you could just eat this dip right out of the spoon! In addition to spinach and bits of artichoke hearts, the dip is made from cream cheese, mayonnaise, onion, Monterey Jack and Parmesan cheeses, autolyzed yeast, garlic powder, cornstarch, sea salt, and spices. It is gluten free. As you might guess, it is low in carbs and fairly high in fat.

I think that the good folks at La Terra Fina should rename their unbelievably delicious Chunky Spinach Artichoke & Parmesan Dip. The name tells the major ingredients, but it doesn't give a hint of how versatile this dip is. I would call it "The Sandwich Makers' Friend."

While it is lovely to use Chunky Spinach Artichoke & Parmesan Dip as a dip, it can be easily used to enhance a sandwich meal experience. Here are suggestions for its use in single serving foods. If you have a crowd over, just increase the quantities.

Sandwich. Grill your favorite bread or a crusty Italian roll. Spread Chunky Spinach Artichoke & Parmesan Dip on each piece of bread or roll. On one piece of bread place fresh spinach leaves, thinly sliced tomato, and thinly sliced cucumber. Add deli sliced roast beef, ham, or turkey. Close the sandwich with the second piece of bread or roll.

Side Salad. Make a bowl of your favorite mixed greens and veggies. Add Italian dressing and 1-2 tablespoons of Chunky Spinach Artichoke & Parmesan Dip. Toss the salad to mix it and serve it with your favorite sandwich.

Cup of Soup. In a microwave safe cup, use 1/4 cup of Chunky Spinach Artichoke & Parmesan Dip, add 1/3-1/2 cup of baked potato that has been mashed up. (You may also substitute 1/4 cup of instant mashed potato flakes.) Stir in 1/2 to 3/4 cup of milk. You may add a slice of cheese, if desired. I used a bit of pepperjack. Microwave until the cheese has melted. Stir. Microwave until it has reached your desired temperature. Serve this with a ham or chicken sandwich for a great sandwich meal.

I bought this product based on how many cartons that I saw in carts and the enthusiastic endorsement of another shopper. After using one carton in so many different ways, I am sure that we will buy it again. We have had several meals based on this dip.

What other ways can you think of to use Chunky Spinach Artichoke & Parmesan Dip? Let us know on the BellaOnline Sandwiches Forum. I can hardly wait to see your creative ideas!

Related links: *The Related Links below this article may be of interest to you.*

When I mention stores or products by brand name, these are the ones that I use. I have not received free products from the manufacturers, nor have I been paid to mention the products or stores by name.

NEWSLETTER: I invite you to subscribe to our free weekly newsletter. This gives you all of the updates for the Sandwiches site. Sometimes, this newsletter has information and variations on sandwiches that are not in the articles. Fill in the blank below the article with your email address - which is never passed on beyond this site. We never sell or trade your personal information.



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Taste Test: The Best And Worst Store-Bought Spinach Dips

01/20/2014 10:25 am ET | Updated Jan 30, 2014



Kristen Aiken Executive Food & Lifestyle Editor, The Huffington Post



DAMON DAHLEN/THE HUFFINGTON POST

Here at HuffPost Taste, [dip](#) is a priority. A party isn't worth its salt if there's no dip, whether it's [cheese fondue](#) at an upscale get-together or [chili cheese dog dip](#) at a football party where your buddies paint their bare chests and hurl their bodies down a [queso-covered](#) Slip 'N Slide.

It's tough to play favorites when one has a love this deep for dip, but we can say without hesitation that we'd happily live on [spinach artichoke dip](#) alone. While it's

[always better homemade](#), there are store-bought versions that we've always wondered about. We gathered eight of the top brands for a blind taste test to put our minds at rest.

There's one thing these eight dips all have in common — spinach. They do not, however, all contain artichoke (get your acts together, food brands!). Keeping this in mind, we corralled a group of editors to rank them. The results ranged from "Life cannot get more perfect than this" to "Thin, watery, sour. Seafoody?" We don't want you to toe this fine line uninformed, so we're sharing these ever-important results with you.

Where does your favorite rank? Let us know below!

As always, this taste test was in no way influenced by the brands included.

Want to read more from HuffPost Taste? Follow us on [Twitter](#), [Facebook](#), [Pinterest](#) and [Tumblr](#).

#8: Cedar's (LAST PLACE)



Damon Dahlen/The Huffington Post

Comments: "Too runny, too sour, and not at all delicious." "Tangy and watery." "Sad, pickled flavor." "Thin, watery, sour. Seafoody?" "Too runny, but I like the tang." "Yuck. Tastes like the leftovers of an old ranch bottle."

#7: Tostitos (Not Recommended)

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Damon Dahlen/The Huffington Post

Comments: "This is the WORST. So artificial." "Light but salty." "Oh no." "Neutral. Inoffensive. More vegetal than most." "What? This is neither spinach nor artichoke. WTF." "Are there pickles in this?"

#6: Trader Joe's Reduced Guilt (Not Recommended)



Damon Dahlen/The Huffington Post

Comments: "Way too red peppery. Spinach dip shouldn't have red peppers in it." "Fresh vegetable-y." "Tastes like kale." (There's kale in it.) "Peppers give it more of a kick than the others." "This is tasty, but tastes more of carrot than anything else." "No no no! No red pepper in spinach dip."

#5: Ciolo (Not Recommended)



Damon Dahlen/The Huffington Post

Comments: "SO vinegary." "Terrible aftertaste." "Strong artichoke flavor."
 "Citrusy!" "Initially I hated it, but then I realized that it was just really artichokey."
 "Lemony. Chunky."

#4: T.G.I. Friday's (Recommended)



Damon Dahlen/The Huffington Post

Comments: "Decent. It's got a lot of spinach and very little creaminess though."
 "Whoa, this is a lot of spinach." "I like this strong spinach taste a lot. Sort of reminds me of creamed spinach." "Blech. I love hot dips, but this tastes like glue."
 "Love all the spinach. So hearty. But needs more cheese."

#3: Trader Joe's, Refrigerated (Highly Recommended)



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Comments: “Really flavorful and fresh tasting, and satisfyingly creamy.” “Nice and tangy.” “Oh, I love you. Very vegetal. I could eat a whole container.” “Tastes super fresh!”

#2: La Terra Fina (Highly Recommended)



Damon Dahlen/The Huffington Post

Comments: “Love this! Nice artichoke zing, creamy and light. I could eat this endlessly.” “Nice and tangy.” “Mostly tastes like garlic and cream cheese. Not in a bad way!” “Oh, this is a delight! A little too mayo-y and acidic, but otherwise great.” “Solid. Nice spinach and good artichoke chunks.”

#1: Trader Joe's, Frozen (WINNER)



Damon Dahlen/The Huffington Post

Comments: "Life cannot get more perfect than this." "Rich and cheesy." "Cheesy, so cheesy." "Cheesy and oniony." "Hot dips are always better than cold dips, but this one is extra creamy." "So much cheese. Love it."

This story appears in Issue 86 of our weekly iPad magazine, Huffington, available Friday, Jan. 31 [in the iTunes App store.](#)

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Monday, September 16, 2013

Product Review: La Terra Fina Dips & Spreads

Recently the folks at La Terra Fina sent me a couple of their dips to try - and seriously - who doesn't love dip!?!



La Terra Fina was started by a chef in San Francisco. She took her most loved dips & quiches and created products for grocery stores. Locally you can find La Terra Fina at Meijer and Costco stores (in the Cincinnati area).

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They sent their artichoke & jalapeno - which I was a little nervous about - I'm not a big fan of spicy. This was good though - just enough of a kick to wake you up but not enough to keep you up.

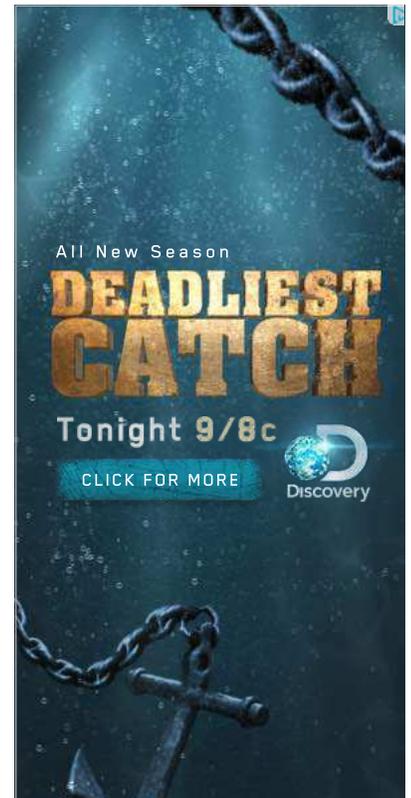


But the Chunky Spinach Artichoke & Parmesan was my favorite!!! These have eggs - so I got to eat the whole thing myself! (Sorry hubby) I didn't even notice that you can heat this up and/or use it in a recipe!

This dip was like perfection in a plastic tub - there visible chunks of cream cheese - bitable pieces of artichoke and a nice garlic zestiness! Loved it! This is now tied with Helluva Good's Buffalo Wing Dip for Heather's Favorite Dip on the Planet!

La Terra Fina also focuses on sustainability and recycle 83% of their materials and they source locally - good stuff! Besides dips - they also have quiches - that I might have to try!

* La Terra Fina sent me these dips to try for free. The opinions are my own.



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Posted by Heather Johnson at 9:00 AM

Labels: dip, la terra fina, product review, quiche, spread

Reactions: funny (0) useful (0) can't wait to go there (0) can't wait to try that (0)

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Heather Johnson (The Food Hussy) via Google+ 2 years ago - Shared publicly

Wanna try the best new dip out there? Head to Meijer or Costco and get this La Terra Fina Spinach Artichoke Dip - it's AMAZING!!!

<http://www.thefoodhussy.com/2013/09/product-review-la-terra-fina-dips.html>

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La Terra Fina

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La Terra Fina shared [Tried and Tasty's](#) photo.

Yesterday at 2:18pm ·

Yes please, we want more cheese!! YUMMY new recipe using La Terra Fina dip!



NOTES

La Terra Fina Chip & Dip Day Promotion Official Ru...
 March 19, 2014

La Terra Fina Big Game Sweepstakes Official Rules
 January 26, 2014

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Pat Loeb

March 8 at 6:47pm

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January 19 at 3:26pm

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December 27, 2015 at 4:57pm

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Tried and Tasty

March 27 at 1:00pm

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La Terra Fina

March 25 at 11:18am

National Spinach Day is tomorrow, March 26th, but we're celebrating early! Our Dips & Quiches just wouldn't be the same without it.



We ♥ Spinach



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DebbyDoshier Richard Adams, Vivian McPherson, Connie Szuwalski [Top Comments](#) and 75 others like this.

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Jennifer Jones I eat spinach everyday I'm spinach lover yummy

1 · March 26 at 9:58am



Sandee Carranza I'm eating some now

1 · March 25 at 3:11pm



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La Terra Fina

March 24 at 1:01pm

Here it is...your stress free, make ahead Ultimate Easter Brunch Menu via NeighborFood! Woo hoo! <http://bit.ly/1Rof5UI>



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