

ESTTA Tracking number: **ESTTA752977**

Filing date: **06/16/2016**

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

Proceeding	92063469
Party	Defendant New Food Corp.
Correspondence Address	NATALIE SULIMANI SULIMANI & NAHOUM PC 116 W 23RD STREET, STE 500 NEW YORK, NY 10011 UNITED STATES natalie@sulimanilawfirm.com
Submission	Answer
Filer's Name	Natalie Sulimani, Esq.
Filer's e-mail	natalie@sulimanilawfirm.com
Signature	/nataliesulimani/
Date	06/16/2016
Attachments	Answer to Petition for Cancellation FERREIRA.pdf(317532 bytes)

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

In the matter of the Registration No. 4300352
Registered March 12, 2013
Mark FERREIRA FOODS (Word Mark)

SOGRAPE VINHOS, S.A.,

Petitioner,

Petition No. [92063469](#)

- against -

ANSWER

NEW FOOD CORP.,

Registrant.

ANSWER TO PETITION FOR CANCELLATION

Registrant, New Food Corp., a New York corporation, for its Answer to the Petition for Cancellation filed by Petitioner, Sogrape Vinhos, S.A., states as follows:

1. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 1 of the Petition for Cancellation, and on that basis denies those allegations.
2. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 3 of the Petition for Cancellation, and on that basis denies those allegations.
3. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 3 of the Petition for Cancellation, and on that basis denies those allegations.
4. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 3 of the Petition for Cancellation, and on that basis denies those allegations.
5. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 5 of the Petition for Cancellation, and on that basis denies those allegations.
6. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 6 of the Petition for Cancellation, and on that basis denies those allegations.
7. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 7 of the Petition for Cancellation, and on that basis denies those allegations.

8. Registrant denies each and every allegation of Paragraph 8 of the Petition for Cancellation.

9. Registrant denies each and every allegation of Paragraph 9 of the Petition for Cancellation.

10. Registrant denies each and every allegation of Paragraph 10 of the Petition for Cancellation.

11. Registrant admits the allegations of Paragraph 11 except denies knowledge of Petitioner's prior rights.

12. Registrant admits registration of its mark No. 4,300,352.

13. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 13 of the Petition for Cancellation, and on that basis denies those allegations.

14. Registrant denies the allegations of Paragraph 14 of the petition for cancellation.

15. Registrant denies the allegations of Paragraph 15 of the petition for cancellation except admits that Registrant's goods is a food product.

16. Registrant denies the allegations of Paragraph 16 of the petition for cancellation.

17. Registrant denies the allegations of Paragraph 17 of the petition for cancellation.

18. Registrant denies the allegations of Paragraph 18 of the petition for cancellation.

19. Registrant denies the allegations of Paragraph 19 of the petition for cancellation.

20. Registrant repeats paragraphs 1-19 above.

21. Registrant admits that is submitted a specimen of a "digital images of spices currently used in commerce" which is the product used for "sliced meat".

22. Registrant denies the allegations of Paragraph 22 of the petition for cancellation.

23. Registrant denies the allegations of Paragraph 23 of the petition for cancellation.

24. Registrant denies the allegations of Paragraph 24 of the petition for cancellation.

25. Registrant lacks the sufficient knowledge to confirm or deny the allegations of Paragraph 25 of the Petition for Cancellation, and on that basis denies those allegations.

26. Registrant denies the allegations of Paragraph 26 of the petition for cancellation.

27. Registrant denies the allegations of Paragraph 27 of the petition for cancellation.

28. Registrant denies the allegations of Paragraph 28 of the petition for cancellation.

AFFIRMATIVE DEFENSES

The petition for cancellation, although well crafted, lacks any basis. The petition for cancellation is a thinly veiled attempt for Petitioner to try and own all uses of the name FERREIRA despite the fact that their earliest registration is from 1968 and never before sought to register marks in Class 029 or 030.

29. Petitioner has not and will not be damaged by the registration of the Trademark FERREIRA FOODS and therefore lacks standing to petition to cancel the registration.

30. There is no likelihood of confusion, mistake or deception between Registrant's mark and the Petitioners marks.

31. Petitioner is barred from seeking cancellation of the registrant's trademark under the doctrines of laches, estoppel, waiver and unclean hands.

32. The Petition for Cancellation fails to state a claim upon which relief can be granted.

33. Petitioner does not have the exclusive right to the term "FERREIRA" as a part of a trademark.

WHEREFORE, Registrant prays that the Petition for Cancellation be dismissed with prejudice.

Respectfully Submitted,



Natalie Sulimani, Esq.

Sulimani & Nahoum, PC

116 W. 23rd Street, Ste 500

New York, NY 10011

212.863.9614 Tel

Natalie@sulimanilawfirm.com

Attorneys for Registrant

CERTIFICATE OF SERVICE

The undersigned, attorney for Registrant, hereby certifies that this 2nd day of February, 2015, she served, by first class mail, postage paid, a copy of the Answer upon:

JEREMY M MCLAUGHLIN
ARNOLD & PORTER LLP
THREE EMBARCADERO CENTER, 10TH FLOOR
SAN FRANCISCO, CA 94111
UNITED STATES

A handwritten signature in black ink, appearing to read "Ben Nahoum", is written over a horizontal line.

Benjamin Nahoum