

ESTTA Tracking number: **ESTTA756325**

Filing date: **07/05/2016**

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

Proceeding	92063668
Party	Defendant June Francis, Ashley Kirsten C, Justin Christian C Rono
Correspondence Address	JUNE FRANCIS ASHLEY KIRSTEN C JUSTIN CHRISTIAN C 1629 WHARTON ROAD SAN JOSE, CA 95132 UNITED STATES
Submission	Answer
Filer's Name	James Cai
Filer's e-mail	jcai@sacattorneys.com, mguedenet@sacattorneys.com
Signature	/James Cai/
Date	07/05/2016
Attachments	Barrio - Answer to cancellation by BFMC.pdf(208240 bytes)

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

In the Matter of Registration No. 4,034,365
Mark: BARRIO FIESTA EXPRESS
Date Issued: October 4, 2011

BARRIO FIESTA MANUFACTURING
CORPORATION,

Petitioner,

v.

JUNE FRANCIS RONO, ASHLEY KRISTEN
C. RONO, AND JUSTIN CHRISTIAN C.
RONO,

Registrants.

Cancellation No. 92063668

REGISTRANTS' ANSWER TO PETITION FOR CANCELLATION

Registrants, June Francis Rono, Ashley Kristen C. Rono, and Justin Christian C. Rono, by and through their undersigned counsel, hereby responds to the petition for cancellation as follows:

1. Registrants are without knowledge or information sufficient to form a belief as to paragraph 1 of the petition for cancellation and therefore denies the same.
2. Registrants admit the allegations of paragraph 2 of the petition for cancellation, however, Registrants deny the last sentence of paragraph 2 of the petition.
3. Registrants are without knowledge or information sufficient to form a belief as to paragraph 3 of the petition for cancellation and therefore denies the same.

4. Registrants are without knowledge or information sufficient to form a belief as to paragraph 4 of the petition for cancellation and therefore denies the same.

5. Registrants are without knowledge or information sufficient to form a belief as to paragraph 5 of the petition for cancellation and therefore denies the same.

6. Registrants are without knowledge or information sufficient to form a belief as to paragraph 6 of the petition for cancellation and therefore denies the same.

7. Registrants are without knowledge or information sufficient to form a belief as to paragraph 7 of the petition for cancellation and therefore denies the same.

8. Registrants are without knowledge or information sufficient to form a belief as to paragraph 8 of the petition for cancellation and therefore denies the same.

9. Registrants are without knowledge or information sufficient to form a belief as to paragraph 9 of the petition for cancellation and therefore denies the same.

10. Registrants are without knowledge or information sufficient to form a belief as to paragraph 10 of the petition for cancellation and therefore denies the same.

11. Registrants are without knowledge or information sufficient to form a belief as to paragraph 11 of the petition for cancellation and therefore denies the same.

12. Registrants are without knowledge or information sufficient to form a belief as to paragraph 12 of the petition for cancellation and therefore denies the same.

13. Registrants are without knowledge or information sufficient to form a belief as to paragraph 13 of the petition for cancellation and therefore denies the same.

14. Registrants are without knowledge or information sufficient to form a belief as to paragraph 14 of the petition for cancellation and therefore denies the same.

15. Registrants are without knowledge or information sufficient to form a belief as to paragraph 15 of the petition for cancellation and therefore denies the same.

16. Registrants are without knowledge or information sufficient to form a belief as to paragraph 16 of the petition for cancellation and therefore denies the same.

17. Registrants are without knowledge or information sufficient to form a belief as to paragraph 17 of the petition for cancellation and therefore denies the same.

18. Registrants are without knowledge or information sufficient to form a belief as to paragraph 18 of the petition for cancellation and therefore denies the same.

19. Registrants are without knowledge or information sufficient to form a belief as to paragraph 19 of the petition for cancellation and therefore denies the same. However, Registrants admit that they purchased a restaurant in Milpitas, California in 2011. Registrants also deny the last sentence of paragraph 19.

20. Registrants are without knowledge or information sufficient to form a belief as to paragraph 20 of the petition for cancellation and therefore denies the same.

21. Registrants deny the allegations of paragraph 21, 21a, 21b and 21c of the petition for cancellation.

22. Registrants are without knowledge or information sufficient to form a belief as to paragraph 22 of the petition for cancellation and therefore denies the same.

23. Registrants are without knowledge or information sufficient to form a belief as to paragraph 23 of the petition for cancellation and therefore denies the same.

24. Registrants admit the allegations of paragraph 24 of the petition for cancellation as to the first sentence. As to the remainder of paragraph 24, Registrants are without knowledge or information sufficient to form a belief as to paragraph 24 of the petition for cancellation and therefore denies the same.

25. Registrants deny the allegations of paragraph 25 of the petition for cancellation to the extent it alleges fraudulent use of the "BF Restaurant Logo."

26. Registrants deny the allegations of paragraph 26 of the petition for cancellation.

27. Registrants deny the allegations of paragraph 27 of the petition for cancellation.

28. Registrants admit the allegations of paragraph 27 of the petition for cancellation.

AFFIRMATIVE DEFENSES

The petition for cancellation, although crafted to appear valid, is based on statements taken out of context and references to rights that do not exist.

1. Petitioner has not and will not be damaged by the registration of the trademark

BARRIO FIESTA EXPRESS and therefore lacks standing to petition to cancel registration.

2. Petitioner is barred from seeking cancellation of the Registrants' trademark under the doctrine of laches.

3. Petitioner is barred from seeking cancellation of the Registrants' trademark under the doctrine of estoppel.

4. Petitioner is barred from seeking cancellation of the Registrants' trademark under the doctrine of waiver.

5. Petitioner is barred from seeking cancellation of the Registrants' trademark under the doctrine of unclean hands.

6. Petitioner has acquiesced in Registrants' adoption, registration and use of the mark that is the subject of the petition for cancellation.

WHEREFORE, Registrants pray that the Petition for Cancellation be dismissed with prejudice.

Respectfully submitted,

Date: June 10, 2016

SAC Attorneys, LLP

/S/JAMES CAI
James Cai, Esq.
Attorney for Registrants

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing REGISTRANTS' ANSWER TO PETITION FOR CANCELLATION was served on counsel for petitioner on June 13, 2016, by sending the same via US Mail, to:

Melvin N.A. Avanzado
THE AVANZADO LAW FIRM
1880 Century Park East, Suite 1100
Los Angeles, CA 90067

/S/ James Cai
James Cai, Esq.
Attorney for Registrants