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Filing date: **03/10/2017**

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

Proceeding	92063674
Party	Plaintiff Consueloongpauco-Cauton
Correspondence Address	MELVIN N A AVANZADO THE AVANZADO LAW FIRM 1880 CENTURY PARK EAST, SUITE 1100 LOS ANGELES, CA 90067 UNITED STATES mel@avanzadolaw.com, elaine@avanzadolaw.com
Submission	Other Motions/Papers
Filer's Name	Melvin N.A. Avanzado
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Signature	/Melvin N.A. Avanzado/
Date	03/10/2017
Attachments	2017-03-11 Exh 2 to Avanzado Decl - Cauton.pdf(962775 bytes)

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

CONSUELO ONGPAUCO-CAUTON,

Petitioner,

v.

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

Registrants.

Cancellation No. 92063674

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

*[Motion for Summary Judgment; Separate
Statement of Undisputed facts; Request for Judicial
Notice; Declaration of Melvin N.A. Avanzado filed
concurrently herewith]*

EXHIBIT 2 TO DECLARATION OF MELVIN N.A. AVANZADO

THE AVANZADO LAW FIRM

MELVIN N.A. AVANZADO (Bar No. 137127)
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Attorneys for Defendant and Counterclaimant
Northridge Foods International, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BARRIO FIESTA, LLC, a California Limited
Liability Company,

Plaintiff,

v.

NORTHRIDGE FOODS INTERNATIONAL
INC., and DOES 1 through 10, inclusive,

Defendants.

NORTHRIDGE FOODS INTERNATIONAL
INC., a California corporation,

Counterclaimant,

v.

BARRIO FIESTA, LLC, a California Limited
liability company,

Counterdefendant,

CASE NO. 4:15-CV-02669-JSW
**[Before the Honorable Jeffrey S. White,
United States District Judge]**

DECLARATION OF RONALD YU IN
SUPPORT OF DEFENDANT NORTHRIDGE
FOODS INTERNATIONAL, INC.'S MOTION
FOR SUMMARY JUDGMENT AND
ALTERNATIVE MOTION FOR PARTIAL
SUMMARY JUDGMENT

DATE: October 14, 2016

TIME: 9:00 a.m.

PLACE: Courtroom 5

(Courtroom of the Honorable Jeffrey S. White)

*[Motion for Summary Judgment and Partial Summary
Judgment; Declarations of Erlinda Alianan and Melvin
N.A. Avanzado; Request for Judicial Notice; [Proposed]
Order filed concurrently herewith]*

DECLARATION OF RONALD YU

I, Ronald Yu, declare as follows:

1. I am over 18 years of age and president of Global Commodities Corporation (“Global”). I have personal knowledge of the facts contained in this declaration and, if called, could and would testify competently thereto under oath.

2. Global is a California corporation which was incorporated in 1985. I started working for Global in 1986 and became one of Global’s owners in or about 1987 or 1988. I became Global’s president and sole owner (together with my wife, Cathy) in or about 1998. Our headquarters and product warehouse are currently located in Hayward, California. Global’s business has always been based in the San Francisco bay area. Global has been in business continuously since its formation and since I took over the operations.

3. We are in the business of distributing (selling and marketing) packaged foods imported from the Philippines and other countries in Asia. Even though our company’s formal name is Global Commodities Corporation, we also have been known by those with whom we do business as “Global Foods.” Global receives packaged food products from manufacturers and distributors and resells them to retail stores and markets as well as other distributors in the United States. Those products are ultimately sold to consumers throughout the United States. We receive reports from retailers on the retail sales performance of the goods we distribute.

4. As president, I oversee Global’s record-keeping, inventory control and accounting. Global’s treasurer and outside accountant report to me. Thus, I oversee and am responsible for keeping and maintaining Global’s records for its sales, accounts payable and inventories of food products which we sell. More specifically, I review, oversee and am ultimately responsible for Global’s inventory records, Global’s sales analysis reports and Global’s inventory cost layers reports. I am personally familiar with these records from my review of such documents in the course of my duties and in preparation for Global’s response to the subpoena, as described below. These records are kept in the regular course of Global’s business and are prepared at or near the time of the events that they recorded. I am one of the persons most familiar with Global’s records relating to our sales of the “Barrio Fiesta” brand of food products.

1 5. Global has been selling the “Barrio Fiesta” brand of packaged food products
2 since the 1980s. Those products are manufactured by Barrio Fiesta Manufacturing Corporation
3 (“BFMC”) in the Philippines. Global buys and imports these “Barrio Fiesta” products through
4 BFMC’s distributors. Currently, BFMC’s exclusive distributor for the United States is Northridge
5 Foods Import & Export, Inc., a corporation in the Philippines (“Northridge Philippines”).
6 Northridge Philippines has a representative company in the United States, called Northridge Foods
7 International, Inc. (“Northridge”).

8 6. In this case, Plaintiff’s counsel subpoenaed Global for records and deposition
9 testimony. Even though the deposition was later canceled, we searched Global’s records to find
10 documents relating to Global’s sales and inventory of the Barrio Fiesta brand of food products. We
11 located documents which were dated as early as 1989 which show Global’s inventory and sales of
12 various Barrio Fiesta brand of packaged foods. My own recollection is that Global sold Barrio
13 Fiesta products before 1989; however, these documents dated in 1989 are the earliest records we
14 could locate in Global’s files. I provided those documents to Northridge and its counsel. I am
15 informed and believe that these documents were in turn produced to Plaintiff’s counsel.

16 7. Global has sold Barrio Fiesta products from at least 1989 through the present.
17 We have sold Barrio Fiesta products such as shrimp paste (bagoong), guisado and vinegar. Global’s
18 inventory and accounting records which we produced dates back to September 1989 and confirms
19 my independent recollection of Global’s purchase and sales of such Barrio Fiesta branded food
20 products.

21 Global’s inventory cost layers report dated September 30, 1989 shows that the products which
22 Global purchased and received, including Barrio Fiesta branded vinegar and guisado. I found this
23 report in Global’s files and produced a complete copy to Northridge’s counsel. The page bates-
24 stamped for identification GLOBAL 000064 is from this report. Line item number “4137” is for
25 Barrio Fiesta vinegar and is listed as “BF S-VNGAR 24.” Line item number “4150” is for Barrio
26 Fiesta guisado, listed as “BF GUISADO 24.” Attached as Exhibit “A” is a true and correct copy of
27 this excerpt from Global’s September 30, 1989 inventory cost layer report.

28 ////

1 8. Global's sales analysis report dated September 30, 1989 shows sales
2 information on products which Global sold. I located that report in Global's files and provided a
3 complete copy to Northridge's counsel in this case. The pages bates-stamped for identification
4 GLOBAL 000086 and 101 are pages from that report. Item number 4137 shows Global's sales for
5 Barrio Fiesta vinegar. Item number 4150 shows sales for Barrio Fiesta guisado. Attached as Exhibit
6 "B" is a true and correct copy of these page excerpts from Global's September 30, 1989 sales
7 analysis report.

8 9. Global's inventory cost layers report dated December 31, 1989 lists Global's
9 inventory of products on that date. I located that report in Global's files and provided a complete
10 copy to Northridge's counsel in this case. The pages bates-stamped for identification GLOBAL
11 000274 and 275 are from that report which I located in Global's files. Barrio Fiesta vinegar and
12 guisado products are shown as item numbers 4137 and 4150. Attached as Exhibit "C" is a true and
13 correct copy of these pages from Global's December 31, 1989 inventory cost layer report.

14 10. Global's sales analysis report dated December 31, 1989 show sales
15 information for Global's sales of products. I located that report in Global's files and provided a
16 complete copy to Northridge's counsel in this case. The pages bates-stamped for identification
17 GLOBAL 000302 and 315 are from this report. Global's sales of Barrio Fiesta vinegar and guisado
18 are reported in item numbers 4137 and 4150 on these pages. Attached as Exhibit "D" is a true and
19 correct copy of these page excerpts from Global's December 31, 1989 sales analysis report.

20 11. Global's records as shown in these documents confirm that Global has
21 distributed Barrio Fiesta products since at least 1989. From the reports we received from the
22 retailers and other distributors with whom Global does business, I can confirm that such Barrio
23 Fiesta products were ultimately sold to consumers in the United States, specifically including
24 California and the San Francisco bay area.

25 12. Global has been continually selling Barrio Fiesta products since 1989 and
26 through the present. During this time, Global's sales of Barrio Fiesta products took place throughout
27 the state of California, including the area surrounding Global's headquarters in the Bay Area of
28

1 Northern California. Global's current sales of Barrio Fiesta products now encompass all areas of the
2 state of California and in other markets throughout the United States.

3 I declare under penalty of perjury under the laws of the United States that the
4 foregoing is true and correct.

5 Executed this 7th day of September, 2016 at Hayward, California.

6 

7 _____
Ronald Yu

EXHIBIT “A”

GLOBAL COMMODITIES CORPORATION-SF

I/C - LISTING

PAGE 40

DATE PRINTED: 09/30/89

COST LAYERS

ITEM #	DESCRIPTION	LAYER	ON HAND	COST EACH	EXTENDED COST
4123	BG MNMON 24/12	1	24	1.40	33.60
		2	0	1.40	.00
		3	504	1.40	705.60
			528		739.20
4137	BF S-VNGAR 24	1	0	.55	.00
		2	0	.55	.00
		3	1176	.55	646.80
			1176		646.80
4141	TTAKUAN12/2	1	6	.65	3.90
		2	0	.00	.00
		3	0	.00	.00
			6		3.90
4142	DY SWT/SR24/.9	1	14	.65	9.10
		2	0	.00	.00
		3	0	.00	.00
			14		9.10
4144	S. FISH SC24/12	1	1200	1.00	1,200.00
		2	6	1.00	6.00
		3	432	1.00	432.00
			1638		1,638.00
4150	BF GUISADO 24	1	0	1.15	.00
		2	0	1.15	.00
		3	432	1.15	496.80
			432		496.80
4151	PEANUT BUTER 12	1	0	2.40	.00
		2	0	2.40	.00
		3	156	2.40	374.40
			156		374.40
4168	WCSTRMSHRM48/15	1	96	.83	79.68
		2	0	.83	.00
		3	0	.83	.00
			96		79.68
4180	SALOMPAS 20/10	1	0	.73	.00
		2	0	.73	.00
		3	2698	.73	1,969.54
			2698		1,969.54

EXHIBIT “B”

GLOBAL COMMODITIES CORPORATION-SF
I/C-SALES ANALYSIS BY ITEM NUMBER
SEPTEMBER 30, 1989

PAGE 13

ITEM #	DESCRIPTION	PTD YTD TURNS	PTD YTD COST	PTD YTD SALES	PTD YTD MARGIN
2162	MB BBQ LIQ 24/5	0 935	.00 447.45	.00 611.88	0 26
2168	K LIQUID 6/500	12 54	23.76 106.92	34.14 145.14	30 26
1126	GRTD UBE 20/1#	0 2430	.00 2,013.70	.00 2,743.10	0 26
4137	BF S-VNGAR 24	24 24	13.20 13.20	18.00 18.00	26 26
2216	SB MANGO J 24/1	72 456	68.40 433.20	92.40 589.20	25 26
2223	PILIPIT 25/280	0 398	.00 362.18	.00 492.42	0 26
8016	PLS-BAG/M-3,000	2 20	60.00 605.00	80.00 826.00	25 26
1168	BURONG MANGO 24	0 530	.00 351.45	.00 478.01	0 26
2310	ESKINOL 72/250	12 638	15.96 848.27	21.60 1,158.00	26 26
2325	RBA OTAP 26/250	312 2228	215.28 1,582.98	300.56 2,150.40	28 26
2156	OD SUKA 12/25	360 8360	129.60 3,088.91	165.24 4,161.64	21 25
4073	ZITA REG 25/4	0 36	.00 32.40	.00 43.20	0 25
4074	ZITA GRLE 25/4	0 175	.00 157.50	.00 210.00	0 25
2009	OD G'BANZO24/12	120 1632	96.00 1,373.28	134.40 1,844.40	28 25
6016	T-FISH SC 12/24	24 802	13.68 457.14	18.00 613.42	24 25
2250	URARD 24/330 GM	0 24	.00 24.00	.00 32.40	0 25

GLOBAL COMMODITIES CORPORATION-GF
I/C-SALES ANALYSIS BY ITEM NUMBER
SEPTEMBER 30, 1989

PAGE 28

ITEM #	DESCRIPTION	FTD YTD TURNS	FTD YTD COST	FTD YTD SALES	FTD YTD MARGIN
4150	BF GUISADD 24	48 48	55.20 55.20	63.60 63.60	13 13
2165	MB ANTO LIQ24/B	120 888	121.20 909.84	156.00 1,046.88	22 13
3060	LC-CHOW MEIN 12	0 87	.00 73.95	.00 85.05	0 13
1003	MILKFISH J 45#	0 585	.00 822.60	.00 951.75	0 13
2131	LAURIAT 12/25	1104 16201	621.84 9,584.09	746.04 10,939.20	16 12
9021	BANGUS CN 48'	0 48	.00 41.76	.00 47.52	0 12
4057	OR BCOOKIES12'	0 204	.00 145.68	.00 165.84	0 12
4244	MUNG BEAN 50/14	375 2611	154.29 1,121.91	186.25 1,279.14	17 12
4038	KIKKOMAN 4/16AL	0 12	.00 61.08	.00 70.20	0 12
4242	P OYSTER SC 24'	0 1	.00 21.00	.00 24.00	0 12
8080	CORN SNACK 24	0 47	.00 51.70	.00 58.75	0 12
8019	RABIT CNDY 36'	-20 1	24.80- 38.00	39.00- 43.50	0 12
8064	C-SEAME OIL 12	0 11	.00 23.43	.00 26.84	0 12
4043	CHUKA SOBA 24/6	0 144	.00 101.28	.00 115.20	0 12
2275	COOK BOOK	6 42	19.80 138.60	23.94 158.79	17 12
8078	PUFF COOKIES 12	0 840	.00 855.00	.00 974.64	0 12

EXHIBIT “C”

GLOBAL COMMODITIES CORPORATION-SF

I/C - LISTING

PAGE 40

DATE PRINTED: 12/31/89

COST LAYERS

ITEM #	DESCRIPTION	LAYER	ON HAND	COST EACH	EXTENDED COST
4085	CRAMEL CRN60/.5	1	75	.14	10.50
		2	0	.14	.00
		3	143	.14	20.02
			218		30.52
4092	PH MANGO-S24/12	1	0	.95	.00
		2	0	.95	.00
		3	18	.95	17.10
			18		17.10
4094	ROCK SALT 24/2	1	40	.69	27.60
		2	0	.69	.00
		3	368	.69	253.92
			408		281.52
4106	MSG SHAKER 12/3	1	144	1.32	190.08
		2	0	1.53	.00
		3	24	1.53	36.72
			168		226.80
4112	SESAME SEED 20'	1	4	.59	2.36
		2	0	.59	.00
		3	16	.59	9.44
			20		11.80
4117	SESAMEHONEY 12'	1	36	.60	21.60
		2	0	.60	.00
		3	12	.60	7.20
			48		28.80
4123	BG MNMON 24/12	1	24	1.40	33.60
		2	0	1.40	.00
		3	504	1.40	705.60
			528		739.20
4137	BF S-VNGAR 24	1	0	.55	.00
		2	0	.55	.00
		3	576	.55	316.80
			576		316.80
4141	TTAKUAN12/2	1	6	.65	3.90
		2	0	.00	.00
		3	0	.00	.00
			6		3.90

CONFIDENTIAL-
ATTORNEYS EYES ONLY

GLOBAL000274

GLOBAL COMMODITIES CORPORATION-SF

I/C - LISTING

PAGE 41

DATE PRINTED: 12/31/89

COST LAYERS

ITEM #	DESCRIPTION	LAYER	ON HAND	COST EACH	EXTENDED COST
4144	S. FISH SC24/12	1	0	1.00	.00
		2	0	1.00	.00
		3	654	1.00	654.00
			654		654.00
4150	BF GUISADO 24	1	0	1.15	.00
		2	0	1.15	.00
		3	51	1.15	58.65
			51		58.65
4151	PEANUT BUTER 12	1	180	2.40	432.00
		2	0	2.40	.00
		3	60	2.40	144.00
			240		576.00
4180	SALOMPAS 20/10	1	0	.73	.00
		2	0	.73	.00
		3	2698	.73	1,969.54
			2698		1,969.54
4191	MUNG BEAN 24'	1	120	.87	104.40
		2	0	.00	.00
		3	0	.00	.00
			120		104.40
4204	PORKY-REG. 24/4	1	0	.60	.00
		2	0	.60	.00
		3	949	.60	569.40
			949		569.40
4205	PORKY-W/MEAT 24	1	241	1.50	361.50
		2	0	1.50	.00
		3	298	1.50	447.00
			539		808.50
4207	OD PALABOK 36/4	1	0	.70	.00
		2	0	.70	.00
		3	936	.70	655.20
			936		655.20
4244	MUNG BEAN 60/4	1	135	.40	54.00
		2	0	.40	.00
		3	45	.40	18.00
			180		72.00

CONFIDENTIAL-
ATTORNEYS EYES ONLY

GLOBAL000275

EXHIBIT “D”

GLOBAL COMMODITIES CORPORATION-SF
I/C-SALES ANALYSIS BY ITEM NUMBER
DECEMBER 31, 1989

PAGE 15

ITEM #	DESCRIPTION	PTD YTD TURNS	PTD YTD COST	PTD YTD SALES	PTD YTD MARGIN
2005	JN N-COCO 24/12	24 4174	13.68 2,529.30	18.00 3,332.63	24 24
2192	JUFRAN-REG 4/1	0 4	.00 12.16	.00 16.20	0 24
1064	SMK B.G. 40/8	1000 6120	695.20 4,345.20	978.00 5,738.00	28 24
1022	FF IPON 40/8 DZ	0 440	.00 268.00	.00 355.60	0 24
2030	OD MCAPUND12/24	216 2188	289.44 3,229.88	419.40 4,303.76	30 24
1069	SMK TAWILI 40/8	0 200	.00 132.00	.00 175.60	0 24
2272	S-FLOWER FLAVOR	336 336	174.72 174.72	231.84 231.84	24 24
2059	HH MBALLS 24/12	0 24	.00 20.88	.00 27.60	0 24
1180	BG ALAMNG 24/12	2755 26907	1,921.52 18,470.88	2,548.60 24,356.66	24 24
9137	MISUA 60/8	360 360	176.40 176.40	234.00 234.00	24 24
3053	SHAI PORK 30/9	0 121	.00 216.59	.00 285.29	0 24
1185	BG PADAS 24/12	144 2435	129.60 2,076.81	166.80 2,758.66	22 24
4003	CHA-SHU BUN20/4	0 140	.00 175.00	.00 232.00	0 24
4137	BF S-VNGAR 24	24 624	13.20 343.20	19.20 447.60	31 23
1203	OD MAC 12/32	12 192	21.84 349.44	27.48 457.68	20 23
8095	DINAJOUR 48/6	0 735	.00 205.80	.00 270.15	0 23

GLOBAL COMMODITIES CORPORATION-SF
I/C-SALES ANALYSIS BY ITEM NUMBER
DECEMBER 31, 1989

PAGE 28

ITEM #	DESCRIPTION	PTD YTD TURNS	PTD YTD COST	PTD YTD SALES	PTD YTD MARGIN
8080	CORN SNACK 24	0 47	.00 51.70	.00 58.75	0 12
4225	LUNGKOW 50/1.5	0 50	.00 48.00	.00 55.00	0 12
2194	RUFINA-S 12/16	564 12071	338.40 7,488.82	399.60 8,601.93	15 12
2275	COOK BOOK	0 42	.00 138.60	.00 158.79	0 12
4150	BF GUISADO 24	0 429	.00 493.35	.00 562.50	0 12
8078	PUFF COOKIES 12	0 840	.00 855.00	.00 974.64	0 12
2308	NAGARAYA 48'	384 17663	264.96 12,150.53	330.24 13,955.63	19 12
8064	C-SEAME OIL 12	0 11	.00 23.43	.00 26.84	0 12
8069	UNPEEL BEAN 60	60 1563	24.00 769.96	30.00 882.00	20 12
1190	L/W SGR 30/14	60 180	36.00 112.80	41.40 128.40	13 12
2127	M/S ROAST HOT24	216 4512	73.44 1,586.64	86.40 1,784.64	15 11
2130	MB TYOMANSI 12'	0 1581	.00 1,417.65	.00 1,602.07	0 11
1058	SUGPO 8/12D-1.5	270 3285	1,258.20 15,393.81	1,290.60 17,415.61	2 11
6014	NEP-SARDINES100	27500 43493	4,400.00 6,958.88	4,685.00 7,885.32	6 11
2307	LIGO-HOT 100'	0 200	.00 78.00	.00 88.00	0 11
2230	OD BN CHIPS 20'	40 2235	26.00 1,444.01	35.00 1,622.85	25 11

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing document:

EXHIBIT 2 TO DECLARATION OF MELVIN N.A. AVANZADO

has been served on Registrants by mailing said copy on date set forth below via priority United States Mail, postage prepaid, to:

James Cai, Esq.
SAC Attorneys LLP
111 North Market Street, Suite 1020
San Jose, California 95113

Executed on March 10, 2017 at Los Angeles, California.

A handwritten signature in cursive script, appearing to read "Keiko Kawana", is written over a horizontal line.

Keiko Kawana