

00/00/2002TAB

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

PRODUCTOS LISTOS
D'AQUI, INC.
Petitioner,
v.
MILK HOUSE CHEESE CORP.,
Registrant.

Cancellation No. _____

Registration No.: 1,341,172

Issued: June 11, 1985

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US PATENT &
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PETITION FOR CANCELLATION

BOX TTAB FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514



08-07-2003

U.S. Patent & TMO/TM Mail Rept Dt. #39

Sir:

Petitioner, Productos Listos D'Aqui, Inc. ("Petitioner"), a Puerto Rico corporation doing business at P.O. Box 364564 San Juan, Puerto Rico, 00936-4564, believes that it is, or will be, damaged by Registration No. 1,341,172, owned by Milk House Cheese Corporation ("Registrant"), a corporation last known to be organized under the laws of the State of Texas doing business at 7757 San Felipe, Suite 100, Houston, Texas 77063, and hereby petitions to cancel same.

As grounds for the cancellation, Petitioner alleges that:

1. Registrant is the owner of record of Registration No. 1,341,172 for MILKHOUSE CHEESE & Design covering "cheese" ("Registrant's Goods"). This registration

was filed on November 19, 1984, claims a first use date of June 5, 1984, and registered on June 11, 1985.

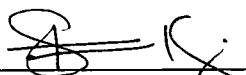
2. Petitioner owns two pending applications for the marks MILKHOUSE CHEESE and MILKHOUSE CHEESE & Design, both applications of which cover “cheese and butter” (“Petitioner’s Goods”). Petitioner filed both applications on August 4, 2003 claiming a first use date of October 5, 2000, pursuant to 15 U.S.C. §1051(a).
3. Upon information and belief, the MILKHOUSE CHEESE & Design mark identified in Registration No. 1,341,172 is no longer in use, and has not been in use for at least three (3) consecutive years for any of the products covered in that registration.
4. Upon information and belief, Registrant has no bona fide intent to resume use of the mark identified in Registration No. 1,341,172 and, therefore, has abandoned the registered mark.
5. Petitioner will be harmed by the continued registration of Registrant’s MILKHOUSE CHEESE & Design mark because the Registrant’s MILKHOUSE CHEESE & Design mark will be an obstacle to the registration of Petitioner’s MILKHOUSE CHEESE & Design and MILKHOUSE CHEESE marks.

09/02/2003TAF

Wherefore, Petitioner prays Registration No. 1,341,172 for the mark MILKHOUSE CHEESE & Design, covering cheese, in International Class 29, be cancelled and that this Petition for Cancellation be sustained.

Respectfully submitted,

Date: August 7, 2003

By:  _____

Alan M. Grimaldi
Stacey H. King
Howrey Simon Arnold & White, LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
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Attorneys for Petitioner
PRODUCTOS LISTOS D'AQUI, INC.

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August 7, 2003

FILE: 06118.0002.000000

HAND DELIVERY

BOX: TTAB - FEE

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

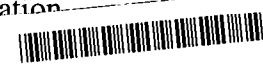
TRADEMARK FEE PROCESS
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US PATENT &
TRADEMARK OFFICE

Re: Petition for Cancellation of Registration No. 1,341,172
Filed by Petitioner Productos Listos D'Aqui, Inc.

Dear Madam:

We enclose for appropriate action the following Petition for Cancellation
of the mark MILKHOUSE CHEESE & Design:

1. Transmittal Letter (in duplicate);
2. Petition for Cancellation;
3. Check No. 398083 in the amount of \$300.00; and
4. A postcard to evidence receipt of the above items.



08-07-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #39

It is our understanding that a fee of \$300.00 is required. However, if an additional fee is required, we hereby authorize the Commissioner of Trademarks to draw on the deposit account of Howrey, Simon, Arnold & White, LLP, Account No. 08-3038, Order No. 06118.0002.000000/SHK. A duplicate copy of this letter is enclosed for billing purposes, if necessary.

Please call if there are any questions.

Respectfully submitted,

Stacey H. King

Enclosures

- cc: Alberto Estrella, Esq. (w/enclosures)
Alan M. Grimaldi, Esq. (w/enclosures)
Deborah Coleman (w/enclosures)