

TTAB

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

In the matter of the Trademarks

“BEATRICE”
Registration No. 1,374,094
Registered on December 3, 1985

“BEATRICE”
Registration No. 1,374,095
Registered on December 3, 1985

“BEATRICE”
Registration No. 1,395,942
Registered on June 3, 1986

RIVER WEST BRANDS LLC,)	
)	
Petitioner,)	Cancellation No. 92042986
)	
vs.)	
)	
CONAGRA BRANDS, INC.,)	
)	
Registrant.)	

ANSWER TO PETITION FOR CANCELLATION

COMES NOW the Registrant, ConAgra Brands, Inc., and answers Petitioner's Petition for Cancellation as follows:

1. Registrant admits the allegations set forth in Paragraph 1 of the Petition to Cancel.
2. Registrant admits the allegations set forth in Paragraph 2 of the Petition to Cancel.
3. Registrant admits the allegations set forth in Paragraph 3 of the Petition to Cancel.
4. Registrant admits that it acquired Registration Nos. 1,374,094, 1,374,095, and 1,395,942 via assignment from Hunt-Wesson, Inc. Registrant denies all other allegations set forth in Paragraph 4 of the Petition to Cancel.



04-15-2004

5. Registrant admits the allegations set forth in Paragraph 5 of the Petition to Cancel.

6. Registrant admits the allegations set forth in Paragraph 6 of the Petition to Cancel.

7. Registrant admits the allegations set forth in Paragraph 7 of the Petition to Cancel.

8. Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Petition to Cancel and therefore denies the same.

9. Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Petition to Cancel and therefore denies the same.

10. Registrant denies the allegations set forth in Paragraph 10 of the Petition to Cancel.

11. Registrant denies the allegations set forth in Paragraph 11 of the Petition to Cancel.

AFFIRMATIVE DEFENSES

COMES NOW the Registrant, ConAgra Brands, Inc., by and through its attorneys, and by way of affirmative defenses, states as follows:

1. Petitioner's Petition to Cancel, and each cause of action contained therein, fails to state a claim upon which relief can be granted.

2. Petitioner lacks standing to bring this action against Registrant.

3. Registrant has not discontinued use of the "BEATRICE" trademark without intent to resume such use.

4. Registrant has made use of the "BEATRICE" trademark and trade name within the three years immediately prior to the filing of this action by Petitioner.

5. Registrant has not abandoned the "BEATRICE" trademark.

WHEREFORE, Registrant prays that the Petition to Cancel be dismissed in its entirety, and that Registrant's registrations remain active.

Dated this 12th day of April, 2004.

RESPECTFULLY SUBMITTED,

CONAGRA BRANDS, INC., Registrant

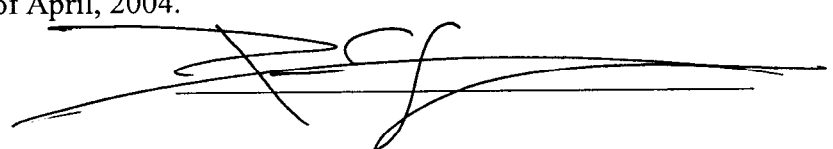
By 

Patrick C. Stephenson
James M. Sulentic
McGRATH NORTH MULLIN &
KRATZ, PC LLO
Suite 3700 First National Tower
1601 Dodge Street
Omaha, Nebraska 68102
(402) 341-3070

ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document entitled ANSWER TO PETITION TO CANCEL has been served on Petitioner's counsel, David S. Ruder, Chief Executive Officer, River West Brands, LLC, 20 North Wacker Drive, Suite 2720, Chicago, Illinois 60606, by depositing same in the United States first-class mail, postage prepaid, on the 12th day of April, 2004.



CERTIFICATE OF MAILING

I hereby certify that this correspondence, document and/or fee is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on this 12th day of April, 2004.

