

Attorney Docket 26:58-1

TRADEMARK

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

Registration No. 3,037,538
Issued: January 3, 2006
For: **CAMPARI**

Westgro Sales, Inc.,)
)
Petitioner,)
)
vs.)
)
Mastronardi Produce, Ltd.)
)
Registrant.)
)
)

Cancellation No.

PETITION TO CANCEL
[NON-CONFIDENTIAL -
VERSION - PARAGRAPH
NO. 3 AND EXHIBIT "A"
REDACTED (T.B.M.P. §412.04-
37 C.F.R. §2.27(e))]

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir:

On January 3, 2006, Registrant Mastronardi Produce, Ltd., a Canadian corporation, with a mailing address of 2100 Road 4 East, Kingsville, Ontario, N9Y 2E5, Canada (hereinafter "MPL") was issued Trademark Registration No. 3,037,538 for "CAMPARI" for "fresh tomatoes" in class 30 (hereinafter "CAMPARI"). Petitioner Westgro Sales, Inc, a Canadian corporation, having offices at 7430 Hopcott Road, Delta, British Columbia, V4G 1B6, Canada (hereinafter "Petitioner") claims that it will be damaged by the continued registration of CAMPARI, and hereby Petitions for Cancellation of same. As grounds therefor, Petitioner alleges the following:

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1. The date of first use stated in the registration for CAMPARI is November 1995.

2. Petitioner is a large-scale distributor of agricultural goods, and is very knowledgeable of the North American tomato industry. Through its licensees, Petitioner sells fresh tomatoes in the United States under the name CAMPARI. On information and belief, the dates of first use claimed by MPL in the CAMPARI registration are false. On information and belief, MPL alleged these false dates of first use with the intention of misleading the Trademark Office, and in reasonable reliance upon such material false statements, the Trademark Office was actually misled.

3. [CONFIDENTIAL - FILED UNDER SEAL PURSUANT TO T.B.M.P. SECTION 412.04 AND 37 C.F.R. SECTION 2.27(e) (Paragraph 3 and Exhibit "A" Only)]

4. In light of MPL's binding admission that Petitioner is the owner of CAMPARI, MPL's claim under oath in the application for CAMPARI that MPL was "the owner of the mark" and that "no other person, firm, corporation or association has the right to use the mark in commerce" was false. On information and belief, MPL made this false claim with the intention of misleading the Trademark Office, and in reasonable reliance upon this material false claim, the Trademark Office was actually misled.

6. Petitioner will be damaged by the continuing existence on the Principal Register of CAMPARI because such registration is likely to cause confusion with respect to the sponsorship or relationship of MPL by Petitioner, and that the color of statutory rights granted MPL under such registration are in violation and derogation of the superior rights of Petitioner.

WHEREFORE, Petitioner hereby respectfully requests that Registration No. 3,037,538 be canceled.

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Please charge any necessary fee regarding this Petition to the Deposit Account of Townsend and Townsend and Crew LLP, DAO 20-1430, and credit any overpayment to such deposit account.

Pursuant to the Trademark Rules, this Petition is being submitted in triplicate.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Dated: May 5, 2006

By



John A. Hughes
Attorneys for Petitioner

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope on May 5, 2006 addressed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

By 
John A. Hughes

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