


TTAB

"Express Mail" Mailing No. EV 634305382 US
Date of Deposit: September 27, 2006

I hereby certify that this paper and fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451.


Signature

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

KRAFT FOODS HOLDINGS, INC.)
)
 Petitioner,)
)
 v.)
)
 TULLY'S COFFEE CORPORATION)
)
 Respondent.)

Cancellation Number: _____

Registration Number: 3,128,681 / 78421828

Mark: TANGO
10/04/2006 GTNCHAS2 00000006 111650 3128681

Registered: August 15, 2006 DA

To: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

KRAFT FOODS HOLDINGS, INC., a corporation duly organized and existing under the laws of the State of Delaware, located and doing business at Three Lakes Drive, Northfield, Illinois 60093 ("Petitioner") believes that it is or will be damaged by the continued registration of the mark identified above issued in the name of Respondent, TULLY'S COFFEE CORPORATION, a corporation duly organized and existing under the laws of the State of Delaware, having its principle place of business at 3100 Airport Way South, Seattle, Washington 98134 ("Respondent") and therefore petitions to cancel Registration Number 3,128,681.

As grounds for this petition, Petitioner states as follows:



09-27-2006

1. Respondent's Application Number 78-421828 for TANGO in Class 32 for "fruit beverages; fruit-flavored beverages; blended fruit beverages; fruit beverages flavored with cream; and fruit-flavored beverages made with tea flavoring," issued to U.S. Registration Number 3,128,681 on August 15, 2006.

2. Petitioner is the owner of the TANG trademark in Class 32, which bears Registration Number 1,974,439, for "soft drinks and powders, syrups and concentrates used in the preparation of soft drinks." A copy of this registration is attached as Exhibit A. Registration Number 1,974,439 is incontestable under 15 U.S.C. §1065.

3. For more than 50 years prior to Respondent's claimed date of first use, Petitioner and its predecessors in interest were engaged (and Petitioner is now still engaged) in the manufacture, distribution, sale, and advertising in interstate commerce of fruit flavored beverages under the TANG trademark.

4. By virtue of the excellence of Petitioner's TANG products and extensive promotional activities and sales, the TANG mark is a famous mark that the public has come to identify with Petitioner.

5. Respondent's TANGO mark is confusingly similar to Petitioner's TANG trademark visually, phonetically, and in its spelling. Indeed, TANGO includes the TANG mark in its entirety and differs only by the addition of the letter "O" at the end.

6. Continued registration of TANGO by Respondent in connection with its beverages is likely to cause confusion or mistake or deceive customers or potential customers with respect to Petitioner and its TANG beverages in that purchasers or potential purchasers of Petitioner's and Respondent's goods will believe, and will be justified in believing, that the TANGO branded goods

offered by Respondent are those of Petitioner, or are related to, or are associated with, or sponsored by Petitioner.

7. Any defects, inadequacies, or fault found with Respondent's soft drinks sold under the TANGO mark would, because of the similarity of that mark to Petitioner's TANG, reflect upon Petitioner, and seriously injure Petitioner's reputation that it has established for TANG soft drinks.

WHEREFORE, Petitioner requests that this Petition for Cancellation be granted and that U.S. Trademark Registration Number 3,128,681 be canceled.

This petition to cancel is submitted in duplicate.

Please debit Kraft Foods Holdings, Inc.'s Deposit Account No. 11-1650 in the amount of \$300.00 to cover filing fee for this Petition to Cancel. Any additional fees should be applied to Kraft's Account No. 11-1650.

Respectfully submitted,

KRAFT FOODS HOLDINGS, INC.

By: Susan H. Frohling

Susan H. Frohling
Attorney for Petitioner

Kraft Foods Holdings, Inc.
Three Lakes Drive
Northfield, IL 60093
847-646-8657
September 13, 2006

Int. Cl.: 32

Prior U.S. Cl.: 45

United States Patent and Trademark Office Reg. No. 1,974,439
Registered May 21, 1996

**TRADEMARK
PRINCIPAL REGISTER**

TANG

KRAFT GENERAL FOODS, INC. (DELAWARE CORPORATION)
KRAFT COURT
GLENVIEW, IL 60025 , BY MERGER AND CHANGE OF NAME FROM GENERAL FOODS CORPORATION (DELAWARE CORPORATION) WHITE PLAINS, NY 10625

FOR: SOFT DRINKS AND POWDERS, SYRUPS AND CONCENTRATES USED IN THE

PREPARATION OF SOFT DRINKS, IN CLASS 32 (U.S. CL. 45).
FIRST USE 0-0-1957; IN COMMERCE 0-0-1957.
OWNER OF U.S. REG. NOS. 659,872 AND 670,697.

SER. NO. 73-836,054, FILED 11-3-1989.

ANNE L. CORNELIUS, EXAMINING ATTORNEY



United States Patent and Trademark Office

Home | Site Index | Search | Guides | Contacts | eBusiness | eBiz alerts | News | Help



Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 73836054 **Filing Dt:** 11/03/1989 **Reg #:** 1974439 **Reg. Dt:** 05/21/1996

Registrant: KRAFT GENERAL FOODS, INC.

Mark: TANG

Assignment: 1

Reel/Frame: 0729/0234 **Received:** **Recorded:** 04/06/1990 **Pages:** 0

Conveyance: MERGER AND CHANGE OF NAME

Assignors: GENERAL FOODS CORPORATION, (MERGED INTO)

Exec Dt: 12/29/1989

Entity Type: CORPORATION

Citizenship: DELAWARE

KRAFT, INC., (CHANGED TO)

Exec Dt: 00/00/0000

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignees: KRAFT, INC., (CHANGED TO)

Entity Type: CORPORATION

Citizenship: DELAWARE

KRAFT GENERAL FOODS, INC.

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: MARY LOUISE RYAN
KRAFT GENERAL FOODS, INC.
KRAFT COURT
GLENVIEW, IL 60025

Assignment: 2

Reel/Frame: 1290/0260 **Received:** **Recorded:** 01/17/1995 **Pages:** 33

Conveyance: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS.)

Assignor: KRAFT GENERAL FOODS, INC.

Exec Dt: 01/04/1995

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: KRAFT FOODS, INC.

THREE LAKES DRIVE
NORTHFIELD, ILLINOIS 60093

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: KRAFT FOODS, INC.
MARY LOU HAFLINGER
NF351
THREE LAKES DRIVE
NORTHFIELD, IL 60093

Assignment: 3

Reel/Frame: 2040/0212 **Received:** 02/14/2000 **Recorded:** 01/27/2000 **Pages:** 59

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: KRAFT FOODS, INC.

Exec Dt: 12/26/1999

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: KRAFT FOODS HOLDINGS, INC.

Entity Type: CORPORATION

THREE LAKES DRIVE
NORTHFIELD, ILLINOIS 60093

Citizenship: DELAWARE

Correspondent: KRAFT FOODS
JACQUELINE A. LEIMER
THREE LAKES DRIVE NF-356
NORTHFIELD, IL 60093

Search Results as of: 09/27/2006 12:39 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: July 26, 2006 v.1.10

| [.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)