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

Arcor S.A.I.C.,	:	
	:	Petitioner,
	:	
v.	:	Cancellation No. 92046966
	:	
Paris Gourmet of New York Inc.,	:	
	:	
	:	Registrant.
	:	

ENTRY OF APPEARANCE OF COUNSEL OF RECORD

Please enter the appearance of undersigned counsel as attorney for Registrant Paris Gourmet of New York Inc. in this cancellation proceeding. Please change the correspondence address for Registrant to the following address: Jay S. Horowitz, P.C., 7401 Westlake Terrace #602, Bethesda, MD 20817.

Respectfully submitted,

PARIS GOURMET OF NEW YORK INC.

By: *Jay S. Horowitz*
Jay S. Horowitz, P.C.
Attorney for Registrant
7401 Westlake Terrace #602
Bethesda, MD 20817
(301) 840-0509

Date: 3/7/07

CERTIFICATE OF MAILING/PROOF OF SERVICE

I hereby certify that the foregoing ENTRY OF APPEARANCE OF COUNSEL OF RECORD was mailed first-class mail, postage prepaid, to Assistant Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451 on this 7th day of March, 2007, with a copy by first-class mail to Perla M. Kuhn, Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, NY 10004, attorney for Petitioner.

Jay S. Horowitz
Jay S. Horowitz
Attorney for Registrant

Date: 3/7/07



03-09-2007

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		v.			Cancellation No. 92046966
Paris Gourmet of New York Inc.,					
	Registrant.				

ANSWER TO PETITIONER FOR CANCELLATION

Now comes the Registrant, by and through its attorney, and answers the Petition for Cancellation of Reg. No. 3,121,201 as follows:

- (1) Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 1 through 4, 6 through 8, and 11 of the Petition for Cancellation, and accordingly denies the same.
- (2) Registrant admits that several of the allegations of paragraph 5 of the Petition for Cancellation are true. Registrant admits that its registration Reg. No. 3,121,201 was registered on July 25, 2006, and that the registration is for the mark "CACAO NOEL" for use with chocolate in International Class 30. However, Petitioner has inaccurately listed March 2, 2006 as the date of first use of the "CACAO NOEL" mark. The actual date of first use listed on the "CACAO NOEL" registration is March 2, 2004.
- (3) Registrant denies the allegations of paragraphs 9, 10, and 12 of the Petition for Cancellation.

Further answering, Registrant alleges:

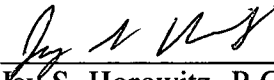
- (4) Registrant's mark, which contains the wording "CACAO NOEL," is not confusingly similar to Petitioner's mark "NOEL." Because of the presence of the wording "CACAO" in Registrant's mark, the two marks are very different in appearance, sound, and meaning.
- (5) Furthermore, there is no likelihood of confusion, mistake, or deception because the goods listed in Registrant's registration are not identical, similar, or related to Petitioner's goods and services. Petitioner's goods, which are listed as "Pickles, spices, preserved vegetables, and milk marmalade; Quince jelly, jam, quince paste and sweet potato cream; and Cookies, biscuits, pound cakes and fruit cakes" are not similar or related to Registrant's chocolate products.
- (6) Petitioner and Registrant have apparently used their respective marks for the last three years without any conflict or confusion in the marketplace.
- (7) As an affirmative defense, Registrant alleges that Petitioner is barred by laches, acquiescence, and estoppel from seeking cancellation of Registrant's registration. Registrant submits that its mark was published in the Official Gazette on May 31, 2005; no parties opposed registration; and a Notice of Allowance was issued on August 23, 2005. In reliance on the fact that no parties came forward to oppose registration of the mark, Registrant continued marketing its goods with the "CACAO NOEL" mark and filed its Statement of Use on February 22, 2006, indicating a date of first use of March 2, 2004. Petitioner had an opportunity to initiate an opposition proceeding when the Registrant's application was published for opposition. However, Petitioner failed to do so and should be barred from challenging Registrant's resulting registration.

In view of the foregoing, Registrant contends that this cancellation proceeding is groundless and baseless in fact; that Petitioner has not shown wherein it will be, or is likely to be, damaged by the continued registration of Registrant's trademark; and that there is no likelihood of confusion, mistake, or deception between Registrant's trademark as used with its goods and Petitioner's mark for use with its goods.

WHEREFORE, Registrant requests that the Petition for Cancellation be denied in all respects.

Respectfully submitted,

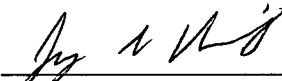
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Jay S. Horowitz
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