

ESTTA Tracking number: **ESTTA203164**

Filing date: **04/07/2008**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Culhane Inc.		
Entity	Corporation	Citizenship	Colorado
Address	33633 Highway 550 North Durango, CO 81301 UNITED STATES		

Attorney information	Sabrina C. Stavish Sheridan Ross, P.C. 1560 Broadway, Suite 1200 Denver, CO 80202 UNITED STATES sstavish@sheridanross.com, smiller@sheridanross.com Phone:303-863-9700		
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Registration Subject to Cancellation

Registration No	2782828	Registration date	11/11/2003
Registrant	Honeyville Grain, Inc. 11600 Dayton Drive Rancho Cucamonga, CA 91730 UNITED STATES		

Goods/Services Subject to Cancellation

Class 030. First Use: 1983/06/01 First Use In Commerce: 1983/06/01 All goods and services in the class are cancelled, namely: Processed grains and foods, namely, corn meal, rolled oats, breads and muffins, and dried grain-based blended beverages
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77053166	Application Date	11/29/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HONEYVILLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1920/00/00 First Use In Commerce: 1920/00/00		

	Honey, fruit jellies, table and topping syrup, chocolate topping, mustard, barbecue sauce, teriyaki sauce and salad dressings
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U.S. Application No.	77975376	Application Date	11/29/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HONEYVILLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1920/00/00 First Use In Commerce: 1920/00/00 Retail catalog ordering, retail online store services and retail stores in the field of food products, beverages and beauty products		

Attachments	77053166#TMSN.jpeg (1 page)(bytes) 77975376#TMSN.jpeg (1 page)(bytes) PETITION FOR CANCELLATION.pdf (4 pages)(266906 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Sarah J. Miller/
Name	Sarah J. Miller
Date	04/07/2008

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

In the Matter of Trademark Registration No. 2,782,828
For the Mark "HONEYVILLE FARMS"
Registered in the U.S. Patent and Trademark Office On: November 11, 2003

Culhane Inc.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	
Honeyville Grain, Inc.)	
)	
Registrant.)	

PETITION FOR CANCELLATION

Petitioner, Culhane Inc, a Colorado corporation, having an address at 33633 Highway 550 North, Durango, Colorado 81301, believes it is damaged and will continue to be damaged by registration of the mark "HONEYVILLE FARMS" for "processed grains and foods, namely, corn meal, rolled oats, breads and muffins, and dried grain-based blended beverages" in Class 30 as shown in U.S. Trademark Registration No. 2,782,828 and hereby petitions to cancel U.S. Trademark Registration No. 2,782,828.

As grounds for this Petition, Petitioner alleges:

1. Petitioner is the owner of rights in the mark HONEYVILLE in connection with food products and retail services, including the following U.S. applications:
 - a. U.S. Trademark Mark Application No. 77/053,166 for "HONEYVILLE" for "honey, fruit jellies, table and topping syrup, chocolate topping, mustard, barbecue sauce, teriyaki sauce and salad dressings" in Class 30; and

- b. U.S. Service Mark Application No. 77/975,376 for “HONEYVILLE” for “retail catalog ordering, retail online store services and retail stores in the field of food products, beverages and beauty products” in Class 35.

2. The “HONEYVILLE” mark has been used in commerce as a trademark and service mark by Petitioner and/or its successor-in-interest since at least as early as 1920 in commerce in connection with honey and related retail and retail catalog sales services, and has been used as a trademark and service mark by Petitioner and/or its successor-in-interest since at least as early as 1940 in connection with jams, jellies and sauces and related retail sales services.

3. The “HONEYVILLE” mark is currently in use by Petitioner as a trademark and service mark in commerce in connection with honey, jams, jellies, chocolate toppings, spreads, condiments, dressings and sauces and retail sales services.

4. Petitioner has developed substantial goodwill in its “HONEYVILLE” mark as a result of longstanding use.

5. Upon information and belief, Honeyville Grain, Inc. is the owner of U.S. Trademark Registration No. 2,782,828 for “HONEYVILLE FARMS” for “processed grains and foods, namely, corn meal, rolled oats, breads and muffins, and dried grain-based blended beverages” in Class 30, the application for this registration being filed on March 8, 2002 on an intent-to-use basis. Upon information and belief, a Statement of Use was filed for Registrant’s mark “HONEYVILLE FARMS” on June 30, 2003, with asserted first use and first use in commerce dates of June 1, 1983 for the goods listed in the registration.

6. As a result of Petitioner’s prior rights in the “HONEYVILLE” mark, Registrant’s continued use and registration of the mark “HONEYVILLE FARMS” in Class 30 is likely to cause confusion, mistake or deception as to the source, origin or affiliation of Registrant’s products.

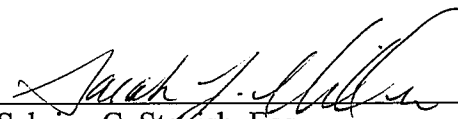
7. The Patent and Trademark Office has issued an Office Action refusing to register Petitioner’s marks on the basis of a conflict with U.S. Trademark Registration No. 2,782,828 for HONEYVILLE FARMS.

8. The continued registration of U.S. Registration No. 2,782,828 impairs Petitioner's right to register the mark "HONEYVILLE", and Petitioner is and will continue to be damaged.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained and that the registration of U.S. Trademark Registration No. 2,782,828 for "HONEYVILLE FARMS" be cancelled. The filing fee of \$300.00 is being submitted herewith. Please debit or credit any under or overpayment to our Deposit Account No. 19-1970.

Respectfully submitted,
SHERIDAN ROSS, P.C.

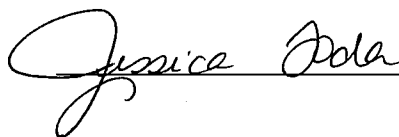
Date: April 7, 2008



Sabrina C. Stavish, Esq.
Sarah J. Miller, Esq.
Attorneys for Petitioner
1560 Broadway, Suite 1200
Denver, CO 80202-5141
Phone: (303) 863-9700
Fax: (303) 863-0223

CERTIFICATE OF SERVICE

I, Jessica Foda, do hereby certify that a copy of the foregoing PETITION FOR CANCELLATION was served by first class mail, postage prepaid, on the 7th day of April 2008, upon the attorney/domestic representative for the Registrant:

 _____

Mr. Richard L. Myers
Mr. Vic Y. Lin
MYERS DAWES ANDRAS & SHERMAN LLP
19900 Macarthur Blvd., Suite 1150
Irvine, California 92612
Phone Number: (949) 223-9600
Fax Number: (949) 223-9610