

ESTTA Tracking number: **ESTTA297818**

Filing date: **07/28/2009**

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

Proceeding	92050949
Party	Defendant Wholesome Choice Market, Inc.
Correspondence Address	Sivoush Nayyeri Wholesome Choice Market, Inc. 2152 Alton Parkway, Suite #A Irvine, CA 92606 UNITED STATES
Submission	Answer
Filer's Name	Sivoush Nayyeri
Filer's e-mail	wsc.office@gmail.com,snayyeri@gmail.com
Signature	/Sivoush Nayyeri/
Date	07/28/2009
Attachments	Petitioner_Answer[1].txt (2 pages)(3266 bytes)

In the Matter of Registration No. 3084295
Flowers Bakeries Brands LLC,
Petitioner,

Cancellation No. 92050949

V.

Wholesome Choice Market, Inc.
Registrant.

ANSWER

COMES NOW, Registrant, Sivoush Nayyeri, and files this Answer to the notice of cancellation filed with respect to the above referenced matter and answers as follows:

1. Registrant is without knowledge or information sufficient to form belief; therefore denied.
2. Registrant is without knowledge or information sufficient to form belief; therefore denied.
3. Registrant is without knowledge or information sufficient to form belief; therefore denied.
4. Registrant is without knowledge or information sufficient to form belief; therefore denied.
5. Registrant is without knowledge or information sufficient to form belief; therefore denied.
6. Registrant is without knowledge or information sufficient to form belief; therefore denied.
7. Denied.
8. Denied.
9. Denied.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Each and every averment of Petitioner's Consolidated Petition for Cancellation not specifically admitted above is denied.

SECOND DEFENSE

There is no likelihood of confusion between the marks used by Respondent and Petitioner.

THIRD DEFENSE

Petitioner is barred by laches because Petitioner has failed to oppose Respondent's registrations or filed a timely petition to cancel Respondent's registration, respondent has expended considerable sums and built considerable good will in its registration.

FOURTH DEFENSE

Petitioner has acquiesced to Respondent's registration because, since April 2006, it has permitted Respondent's sale of products bearing Respondent's marks in the marketplace without opposition to Respondent's registration and without prior petition to cancel Respondent's registration.

WHEREFORE, Registrant, wholesome Choice Market inc. respectfully request that the Petitions for Cancellation be denied.

Date this the 24th day of July, 2009.

/Sivoush Nayyeri, corporate officer/

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