

ESTTA Tracking number: **ESTTA598041**

Filing date: **04/11/2014**

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

Proceeding	92055264
Party	Plaintiff Paradise Biryani, Inc.
Correspondence Address	MARK J INGBER THE INGBER LAW FIRM 374 MILLBURN AVE MILLBURN, NJ 07041 UNITED STATES ingber.law@verizon.net
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Date	04/11/2014
Attachments	PARADISE MOTION TO AMEND.pdf(2818388 bytes )

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

PARADISE BIRYANI, INC.,	X	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation Nos.: 92055487
	:	and 92055264 (parent)
PARADISE HOSPITALITY GROUP LLC,	:	
	:	
Registrant.	:	
	X	

**PETITIONER’S MOTION TO AMEND NAMED TRADEMARK OWNER  
TO CURE AN INADVERTENT CLERICAL ERROR IN THE MANNER IN WHICH  
THE OWNER’S NAME IS SET FORTH**

Petitioner, Paradise Biryani, Inc. (“Petitioner” or “Assignor”), by and through its counsel, hereby moves to amend the named registered owner of Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as the named owner of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE to cure an inadvertent error in the manner in which the ownership name is set forth.

**INTRODUCTION**

On September 21, 2011 Petitioner’s Principal Member, Mr. Narsing Raj Gowlikar, executed an assignment conveying all interest and goodwill in Reg. No. 4,047,868 for PARADISE BIRYANI POINTE and Serial No. 85/124045 to Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe. However, when filing the assignment with the USPTO, prior counsel inadvertently omitted the word “Express” on the cover sheet where the owner’s name is designated. Such clerical error results in the owner’s name being listed in the USPTO database as

follows: **Paradise Biryani, Inc. d/b/a Paradise Biryani Pointe**. Applicant's name is, however, correctly identified in the signed Assignment as: **Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe**. Despite the assignment conveying all rights these marks to the correctly named party, as the word 'Express' was left off of the Assignment's submission coversheet in error by former counsel, all resultant items have misidentified the Applicant.

### **STATEMENT OF UNDISPUTED MATERIAL FACTS**

1. The application for PARADISE INDIAN CUISINE was filed on behalf of Narsing Raj Gowlikar, an individual, on September 7, 2010 under Application Serial No. 85/124045. Said application was conveyed via assignment “from Narsing Raj Gowlikar, with an address of 2 Paddock Drive, Plainsboro, NJ 08536 (“ASSIGNOR”) to Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe, a New Jersey State Corporation with a business address of 1677 Oak Tree Road, Edison, NJ 08820 (“ASSIGNEE”)” on September 21, 2011 and recorded by the USPTO on November 27, 2011. See Executed Assignment Attached hereto as Exhibit A.
2. This assignment was recorded at Reel 4666, Frame 0171 with a clerical error omitting the term “Express” from the assignee’s name on the submission coversheet. See Exhibit A.
3. The application for PARADISE BIRYANI POINTE was similarly filed on behalf of Narsing Raj Gowlikar on September 7, 2010 under Application Serial No. 85/124045. Said application registered on November 1, 2011 under Reg. No. 4,047,868. All rights and interest in this Mark was conveyed via assignment “from Narsing Raj Gowlikar, with an address of 2 Paddock Drive, Plainsboro, NJ 08536 (“ASSIGNOR”) to Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe, a New Jersey State Corporation with a business address of

1677 Oak Tree Road, Edison, NJ 08820 (“ASSIGNEE”)” on September 21, 2011 and recorded by the USPTO on November 27, 2011. See Exhibit A

4. This assignment was recorded at Reel 4666, Frame 0171 a clerical error omitting the term “Express” from the assignee’s name on the submission coversheet.. See Exhibit A
5. Paradise Biryani Express, Inc. is a corporation organized under the laws of the State of New Jersey. See New Jersey Certificate of Incorporation Attached hereto as Exhibit B.
6. Paradise Biryani Pointe is a fictitious name registered with the State of New Jersey in connection with Paradise Biryani Express, Inc. See New Jersey Fictitious Name Registration Attached hereto as Exhibit C.

### **ARGUMENT**

#### **Petitioner’s Motion to Amend is Appropriate Under TMEP 1201.02(c).**

TMEP 1201.02(c) states that “[I]f the party applying to register the mark is in fact the owner of the mark, but there is a mistake in the manner in which the name of the applicant is set out in the application, the mistake may be corrected by amendment.” U.S. Pioneer Electronics Corp. v. Evans Marketing, Inc., 183 USPQ 613 (Comm’r Pats. 1974). In explaining what constitutes a mistake meriting amendment, TMEP provides examples of “Correctable Errors” and “Non-Correctable Errors. This listing of “Correctable Errors” includes:

*Minor Clerical Error.* Minor clerical errors such as the mistaken addition or omission of “The” or “Inc.” in the applicant’s name may be corrected by amendment, as long as this does not result in a change of entity.

*Inconsistency in Original Application as to Owner Name or Entity.* If the original application reflects an inconsistency between the owner name and the entity type, for example, an individual and a corporation are each identified as the owner in different places in the application, the application may be amended to clarify the inconsistency.

*Example: Inconsistency Between Owner Section and Entity Section of TEAS Form:* If the information in the “owner section” of a TEAS application form is inconsistent with the information in the “entity section” of the form, the inconsistency can be corrected, for example, if an individual is identified as the owner and a corporation is listed as the entity, the application may be amended to indicate the proper applicant name/entity.

In the matter at hand, the assignee was correctly identified as Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe, but Petitioner’s former counsel clearly made a minor clerical error when drafting the submission cover sheet to accompany the assignment documents which served to convey Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE. The word 'Express' was inadvertently omitted from the Assignee’s name on the Assignment's submission coversheet in error by former counsel. Accordingly, all resultant items have misidentified the Applicant as **Paradise Biryani, Inc. d/b/a Paradise Biryani Pointe** when, however, the named assignee in the signed and executed Assignment is: **Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe**. As this was an inadvertent omission, made in good faith by counsel for the Petitioner, Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE should be corrected pursuant to TMEP 1201.02(c) to cure an inadvertent error in the manner in which the ownership name is set forth and to reflect the assignee’s proper and complete name.

In the alternative, this situation is also akin to “Inconsistency in Original Application as to Owner Name or Entity”. In the present circumstance, the original assignment properly names the assignee as Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe, however that name is not properly reflected on the registration certificate as the owner’s name. Instead the owner’s name lists the name Paradise Biryani, Inc. d/b/a Paradise Biryani Pointe, is it was incorrectly

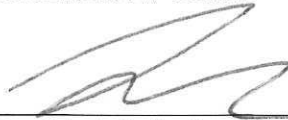
entered on the assignment submission cover sheet. As this was an inadvertent error, made in good faith by counsel for the Petitioner, Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE should be corrected pursuant to TMEP 1201.02(c) to reflect the assignee's proper and complete name.

### **CONCLUSION**

A simple clerical error has resulted in the inadvertent omission of the word "Express" from the owner's Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe name, in Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE, despite the fact that the Paradise Biryani Express, Inc. d/b/a Paradise Biryani Pointe is correctly listed as the assignee on said document. As this was an inadvertent error, made in good faith by counsel for the Petitioner, Reg. No. 4,047,868 for PARADISE BIRYANI POINTE, as well as of Application Serial No. 85/124045 for PARADISE INDIAN CUISINE should be corrected pursuant to TMEP 1201.02(c) to reflect the assignee's proper and complete name.

DATED: April 11, 2014  
Millburn, New Jersey

THE INGBER LAW FIRM



By: Mark J. Ingber, Esq.  
374 Millburn Avenue, Suite 301  
Millburn, New Jersey 07041  
Tel: (973) 921-0080

## CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing Petitioner's Motion to Amend, has been served by email, upon the Paradise Hospitality Group LLC to the following counsel of record this 11<sup>th</sup> day of April, 2014:

Mr. Clifford Hyra  
Symbus Law Group, LLC  
11710 Plaza America Drive  
Suite 2000  
Reston, VA 20190  
chyra@symbus.com

/ Mark J. Ingber/  
Mark J. Ingber

# TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Raj Gowlikar		09/21/2011	INDIVIDUAL: INDIA
RECEIVING PARTY DATA			
Name:	Paradise Biryani Inc		
Doing Business As:	DBA Paradise Biryani Pointe		
Street Address:	1677 OAK TREE ROAD		
City:	EDISON		
State/Country:	NEW JERSEY		
Postal Code:	08820		
Entity Type:	CORPORATION: NEW JERSEY		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Serial Number:	85124078	PARADISE BIRYANI POINTE	
Serial Number:	85124045	PARADISE INDIAN CUISINE	
CORRESPONDENCE DATA			
Fax Number:	(888)577-1474		
Phone:	6462349500		
Email:	NARANGIP@YAHOO.COM		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Correspondent Name:	CHARU NARANG REID, ESQ.		
Address Line 1:	472 BRADY RD		
Address Line 4:	SACKETS HARBOR, NEW YORK 13685		
NAME OF SUBMITTER:	Charu Narang Reid		
Signature:	/Charu Narang Reid/		
Date:	11/27/2011		
Total Attachments: 3 source=trade_mark_assign_notarized_to_pbe#page1.tif source=trade_mark_assign_notarized_to_pbe#page2.tif source=trade_mark_assign_notarized_to_pbe#page3.tif			

OP \$65.00 85124078

TRADEMARK

900207912

REEL: 004666 FRAME: 0171

EXHIBIT A



## TRADEMARK ASSIGNMENT

This Assignment ("Assignment") is made effective as of \_\_\_\_\_, 2011 from Narsing Raj Gowlikar, with an address of 2 Paddock Drive, Plainsboro, NJ 08536 ("ASSIGNOR"), to PARADISE BIRYANI EXPRESS INC d/b/a PARADISE BIRYANI POINTE, a New Jersey State Corporation with a business address of 1677 Oak Tree Road, Edison, NJ 08820 ("ASSIGNEE"):

WHEREAS, ASSIGNOR is the owner of the trademarks (the "Marks") as described in Exhibit A, attached hereto and incorporated by reference herein, together with the goodwill of the business symbolized thereby in connection with the goods on which the Marks are used ("the Products").

WHEREAS, ASSIGNOR desires to convey, transfer, assign, deliver, and contribute to ASSIGNEE all of its right, title, and interest in and to the Marks.

NOW, THEREFORE, in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR hereby conveys, transfers, assigns, delivers, and contributes to ASSIGNEE all of ASSIGNOR'S right, title, and interest of whatever kind in and to the Marks, together with (1) the goodwill of the business relating to the Products in respect upon which the Marks are used and for which they are registered: (2) all income, royalties, and damages hereafter due or payable to ASSIGNOR with respect to the Marks, including without limitation, damages, and payments for past or future infringements and misappropriations of the Marks: and (3) all rights to sue for past, present and future infringements or misappropriations of the Marks.

ASSIGNOR further covenants that it will execute all documents, papers forms and authorizations and take all other actions that may be necessary for securing, completing, or vesting in ASSIGNEE full right, title, and interest in the Marks.

IN WITNESS WHEREOF, ASSIGNOR has duly executed under seal and delivered this Assignment, as of the day and year first above written.

PARADISE BIRYANI EXPRESS INC  
d/b/a PARADISE BIRYANI POINTE

  
by NARSING RAJ GOWLIKAR, President

**Word Mark    PARADISE BIRYANI POINTE**

Goods and Services    IC 043. US 100 101. G & S: Cafe and restaurant services; Restaurant;  
Restaurant and bar services; Restaurant and bar services, including restaurant carryout services;  
Restaurant and cafe services; Restaurant and catering services; Restaurant services.

FIRST USE: 20071026. FIRST USE IN COMMERCE: 20071026

Standard Characters Claimed

Mark Drawing Code    (4) STANDARD CHARACTER MARK

Serial Number 85124078

Filing Date    September 7, 2010

Current Filing Basis    1A

Original Filing Basis    1A

Published for Opposition    August 16, 2011

Owner (APPLICANT) GOWLIKAR, NARSING RAJ INDIVIDUAL INDIA 2 PADDOCK  
DRIVE PLAINSBORO NEW JERSEY 08536

Attorney of Record    CHARU NARANG REID, ESQ.

Disclaimer    NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BIRYANI"  
APART FROM THE MARK AS SHOWN

Type of Mark    SERVICE MARK

Register    PRINCIPAL

Live/Dead Indicator    LIVE

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**Word Mark    PARADISE INDIAN CUISINE**

Goods and Services    IC 043. US 100 101. G & S: Cafe and restaurant services; Restaurant and  
bar services; Restaurant and cafe services; Restaurant and catering services; Restaurant services;  
Restaurant services, including sit-down service of food and take-out restaurant services.

FIRST USE: 20091230. FIRST USE IN COMMERCE: 20091230

Standard Characters Claimed

Mark Drawing Code    (4) STANDARD CHARACTER MARK

Serial Number 85124045

Filing Date    September 7, 2010

Current Filing Basis    1A

Original Filing Basis    1A

Owner (APPLICANT) GOWLIKAR, NARSING RAJ INDIVIDUAL INDIA 2 PADDOCK  
DRIVE PLAINSBORO NEW JERSEY 08536

Attorney of Record    CHARU NARANG REID,

Disclaimer    NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INDIAN  
CUISINE" APART FROM THE MARK AS SHOWN

Type of Mark    SERVICE MARK

Register    PRINCIPAL

Live/Dead Indicator    LIVE

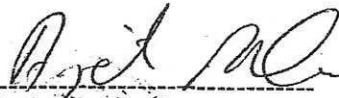
State Of New Jersey )

County of Somerset)

21, September 2011

On \_\_\_\_\_ before me, Arjeta Marku, Notary Public, personally appeared RAJ NARSING GOWLIKAR, proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument (Trademark Assignment) and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature of Notary Public

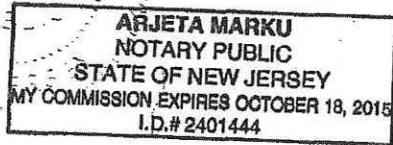


EXHIBIT A

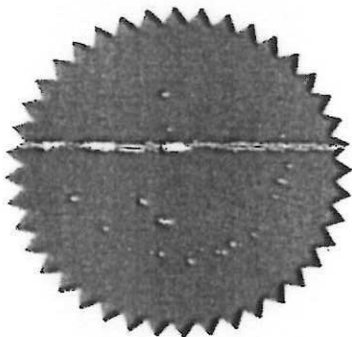
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STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
FILING CERTIFICATION (CERTIFIED COPY)

PARADISE BIRYANI EXPRESS, INC  
0400164786

*I, the Treasurer of the State of New Jersey,  
do hereby certify, that the above named business  
did file and record in this department a  
Certificate of Incorporation on January 29th, 2007  
and that the attached is a true copy of this  
document as the same is taken from and compared  
with the original(s) filed in this office and now  
remaining on file and of record.*

IN TESTIMONY WHEREOF, I have  
hereunto set my hand and  
affixed my Official Seal  
at Trenton, this  
30th day of January, 2007



*Bradley Abelow*

Bradley Abelow  
State Treasurer

EXHIBIT B

NEW JERSEY DEPARTMENT OF THE TREASURY  
DIVISION OF REVENUE AND ENTERPRISE SERVICES

PARADISE BIRYANI EXPRESS, INC

0400164786

I, the Treasurer of the State of New Jersey, do hereby certify that the above-name did on 20th day of November, 2013 file and record in the department a Certificate of Renewal of Alternate Name.

1. BUSINESS NAME:

PARADISE BIRYANI EXPRESS, INC

2. BUSINESS ID.:

0400164786

3. ALTERNATE NAME:

PARADISE BIRYANI POINTE

4. ALTERNATE NAME IS VALID UNTIL:

August 20, 2017

5. ACTIVITY TO BE CONDUCTED USING ALTERNATE NAME:

Business intend to use the name in New Jersey.



IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed my  
Official Seal at Trenton, this  
20th day of November, 2013

A handwritten signature in black ink, appearing to read "Andrew P. Sidamon-Eristoff".

Andrew P Sidamon-Eristoff  
State Treasurer

Certification # 130280907

Verify this certificate at

[https://www1.state.nj.us/TYTR\\_StandingCert/JSP/Verify\\_Cert.jsp](https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp)

EXHIBIT C