

ESTTA Tracking number: **ESTTA505155**

Filing date: **11/13/2012**

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

Proceeding	92055808
Party	Defendant Kahala Franchise Corp.
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Signature	/JSM/
Date	11/13/2012
Attachments	FIRM_DM-#14216037-v1-Answer_to_Petition_to_Cancel_(JOHNNIES_PIZZA).pdf (4 pages)(11889 bytes)

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

In the Matter of:
Registration No. 3,258,492

JOHNNY'S PIZZA HOUSE, INC.,)	
)	
Opposer,)	
v.)	Cancellation No. 92055808
)	
KAHALA FRANCHISE CORP.,)	
)	
Applicant.)	
)	

**REGISTRANT KAHALA FRANCHISE CORP.'S ANSWER TO
PETITION TO CANCEL**

1. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Petition for Cancellation, and therefore denies the same.
2. Admitted.
3. Applicant admits the records of the United States Patent and Trademark Office list Johnny's Pizza House, Inc. as the owner of record of U.S. Trademark Registration No. 1,158,587 for the mark JOHNNY'S PIZZA HOUSE registered June 23, 1981, that the records of the USPTO indicate this registration is valid and subsisting and that an Affidavit of Incontestability Under §15 of the Trademark Act was filed on or around August 20, 1986 and acknowledged by the USPTO on or around December 8, 1986, and that a true and correct copy of the TARR print-out of Petitioner's "JOHNNY'S PIZZA HOUSE" registration, showing the current status and owner of the registration is attached to the Petition for Cancellation as Exhibit A, but is without knowledge or information sufficient to form a belief as to the truth of the further allegations contained in paragraph 3 of the Petition for Cancellation, and therefore denies the same.

4. Applicant admits the records of the United States Patent and Trademark Office list Johnny's Pizza House, Inc. as the owner of record of U.S. Trademark Registration No. 1,217,937 for the mark JOHNNY'S PIZZA & Design registered November 23, 1982, that the records of the USPTO indicate this registration is valid and subsisting and that an Affidavit of Incontestability Under §15 of the Trademark Act was filed on or around January 29, 1988 and acknowledged by the USPTO on or around July 19, 1988, and that a true and correct copy of the TARR print-out of Petitioner's JOHNNY'S PIZZA & Design registration, showing the current status and owner of the registration, is attached to the Petition for Cancellation as Exhibit B, but is without knowledge or information sufficient to form a belief as to the truth of the further allegations contained in paragraph 3 of the Petition for Cancellation, and therefore denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Petition for Cancellation, and therefore denies the same.

6. Admitted.

7. Admitted.

8. Denied.

9. Respondent admits that its JOHNNIE'S NEW YORK PIZZERIA & Design mark is registered for restaurant services, that the records of the USPTO indicate that Petitioner owns federal trademark registrations for the marks JOHNNY'S PIZZA HOUSE and Design and JOHNNY'S PIZZA and Design, and that restaurant services may be related to carryout food services, but denies all other allegations in paragraph 9 of the Petition for Cancellation.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Petition for Cancellation, and therefore denies the same.

11. Denied.

12. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Petitioner fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The marks are not confusingly similar.

WHEREFORE, Applicant prays for judgment against Johnny's Pizza House, Inc.

Dated: November 13, 2012

Respectfully submitted,

NIXON PEABODY LLP

by: /JSM/
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Answer to Petition for Cancellation, via first class mail, on November 13 , 2012, on:

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