

ESTTA Tracking number: **ESTTA667007**

Filing date: **04/16/2015**

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

Proceeding	92056728
Party	Plaintiff Babco Foods International LLC
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Date	04/16/2015
Attachments	Notice of Filing (Corrected) Testimony.pdf(96960 bytes)

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

In the Matter of Registration No. 4148144

Mark: ANAND BHOGH SWEETS

Registered: May 29, 2012

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BABCO FOODS INTERNATIONAL, LLC.

Petitioner,

Cancellation No.: 92056728

v.

SANJAY M. KRISHNAMURTHY,

Registrant.

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**NOTICE OF FILING AND SERVICE OF CORRECTED PAGES TO BE INSERTED
INTO THE TRANSCRIPT PREVIOUSLY SERVED**

Pursuant to 37 CFR § 2.125(b) and TTAB 703.01(n), Petitioner, Babco Foods International, LLC, hereby files its Notice of Filing and Service of Corrected Pages to be inserted into the Transcript Previously Served on March 10, 2015. The following pages, nos. 8, 9, 10, 15, 17, 26, 30, 32, 33, 35, 36, 37, 38, 40, 41, 48, 49 and 51, incorporate those corrections as identified on the errata sheet (filed with the previously served transcript). The undersigned has received consent from opposing counsel to make this filing without leave.

The undersigned hereby certifies that a copy of this document and the referenced pages were served upon the Registrant on this 16th day of April, 2015 via first class mail postage prepaid as set forth in the attached certificate of service.

Dated: April 16, 2015

Babco Foods International LLC

/Jason DeFrancesco/

By:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this 16th day of April, 2015 to Registrant's counsel at the following address:

Charles P. Guarino
MOSER TABOADA
1030 Broad Street Suite 203
Shrewsbury, NJ 07702

/Jason DeFrancesco/

Jason L. DeFrancesco

1 A. Yes.

2 Q. And the advertising of the products?

3 A. Yes.

4 Q. The promotion of the products?

5 A. Yes.

6 Q. The sales of the products?

7 A. Yes.

8 Q. Prior to helping to start Babco Foods,
9 how were you employed?

10 A. I was employed by a company in the
11 Middle East called Khimji Ramdas and I was senior
12 divisional manager with them, manager of the entire
13 division of foods products.

14 Before that, I worked 14 years with a
15 British company called Inchcape.

16 Q. Can you spell that?

17 A. I-n-c-h-c-a-p-e. I was involved in the
18 wholesale division, but I was also the manager of the
19 wholesale division in the distribution of food
20 products like Nestle, Kraft, Kellogg's, McIntosh,
21 international brands; British, American. I was
22 involved in that process.

23 Q. Okay. Would you please describe the
24 business of Babco Foods?

25 A. We import and distribute predominantly

1 South Indian products. Major portion is snacks from
2 the four companies we buy our brand. We buy our
3 Anand brand. We manufacture them and we bring it
4 here in containers and distribute all over the U.S.

5 Q. Okay. Besides Anand brand, do you
6 distribute products from other parties also?

7 A. Yeah, we distribute another 20 brands.

8 Q. Okay. And what are those brands? What
9 type of products are you distributing under those
10 other brands?

11 A. Spice mixes, gravies, various type of
12 rice products. South India is a rice-based region.
13 They grow rice there. And predominantly, they
14 prepare their snacks with rice as a base. And there
15 are different types of rice to prepare different
16 products; plus pickles, fry-and-eat items.

17 And you have a few varieties of South
18 Indian desserts like, mainly, candies.

19 Q. Okay. And you mentioned that you
20 predominantly sell South Indian products.

21 What do you mean by, "South Indian
22 products"?

23 A. There is a vast difference in South
24 Indian eating habits and North Indian eating habits.
25 And these products, we cater to the needs of South

1 Indian in the U.S.A.

2 In South India, there are four states.
3 The first is Andhra, A-n-d-h-r-a. The second is
4 Tamail Nadu, T-a-m-a-i-l-n-a-d-u. Third is Kerala,
5 K-e-r-a-l-a. And fourth is Karnataka,
6 K-a-r-n-a-t-a-k-a.

7 So we bring food products from these
8 four states from South Indian. Of course, we bring
9 products from North Indian also from two companies.
10 But, more than 90 percent of the products that are
11 coming out of South Indian and we cater to these four
12 states in the U.S.A.

13 Q. Could you describe for us your
14 relationship with south India?

15 A. I am a South Indian. And I went to
16 South Indian to identify the products before bringing
17 them here. I was visited all four factories there
18 and I lay down manufacturing plan for them as per FDA
19 standpoint starting from raw material acquisition and
20 cleaning the raw material and processing, frying the
21 products, packing the products, and every aspect of
22 hygiene like frying rooms and packing rooms. There
23 are no inlets. So there, no insects can come in or
24 flies can come in. There are a fly catchers. Double
25 doors, wide-measure door. And walls are white. The

1 India?

2 A. Yes. And these products are, you know,
3 the taste of Karnataka people. So we cater to the
4 needs of Karnataka people.

5 Q. Okay. And the next one is, "Anand
6 Products Kerala."

7 A. Kerala. Kerala is another state in
8 South India. It is a large state. It is a large
9 community here. And we cater to the needs of this
10 community in South India. Kerala is a state.

11 Q. You say you cater to the needs of --

12 A. Kerala community.

13 Q. Kerala community where?

14 A. In U.S.A.

15 Q. In the U.S.A. Going two more pages,
16 "Anand Red Chiles South India"?

17 A. Yes.

18 Q. And what does this represent?

19 A. These are dried chiles; whole, dried
20 chiles and we bring them from Tamailnadu, from
21 Andhra, and from Karnataka because they are different
22 varieties of chiles.

23 Q. Okay. And to your knowledge, is -- are
24 these pages publicly available to consumers on the
25 World Wide Web?

1 Q. Okay. And are all of these products
2 currently being sold?

3 A. Yes.

4 Q. Okay.

5 MR. RANNELLS: I'll mark this as Exhibit
6 No. 4.

7 (Whereupon, the Five-Page Trademark
8 Electronic Search System of Anand is received and
9 marked Exhibit-4 for Identification.)

10 Q. Before going onto the next exhibit,
11 referring back to Exhibit No. 3 which is before you,
12 are all of these products sold in the United States?

13 A. Yes.

14 Q. Okay. I'm showing you what's been
15 marked as Exhibit No. 4.

16 Can you describe what that is?

17 A. This was Anand trademark registered in
18 2003.

19 MR. RANNELLS: For the record, it was
20 filed in 2003 and it was registered July 12, 2005.

21 THE WITNESS: Okay.

22 MR. RANNELLS: And I'm placing on the
23 record that this is a copy from the U.S. Patent and
24 Trademark Office Trademark -- well, U.S. Patent and
25 Trademark Office database showing the current status

1 A. Chennai, C-h-e-n-n-a-i, mixture, we sell
2 under the Anand brand in the U.S.A. 0013.

3 Roasted chick peas, we sell under Anand
4 brand in U.S.A. 0014.

5 Roasted green peas, we sell under Anand
6 brand in U.S.A. 0015.

7 Bangalore mixture, we do not sell it.

8 Kerala, K-e-r-a-l-a, hot mixture, we sell under Anand
9 brand in the U.S.A. 0017.

10 Kerala mixture, we sell under Anand
11 brand in the U.S.A. 0018.

12 Murukku sticks, we sell under Anand
13 brand in the U.S.A. 0019.

14 Tapioca sticks, we sell under Anand
15 brand in the U.S.A. 0020.

16 MR. DEFRANCESCO: What are they called
17 also?

18 THE WITNESS: Cassava. It's a Spanish
19 word maybe. They call it Yucca. It's a long root.

20 A. Tapioca salted sticks, 0021, we sell in
21 the U.S.A. under Anand brand.

22 Jack fruit, we sell under Anand brand in
23 U.S.A. 0022.

24 Special Kerala same as is this product
25 on the first page. (Witness indicated.) So we sell

1 1999, I felt that I was visiting the market of the
2 United States and we were doing all shopping in the
3 North Indian markets and we saw no South Indian
4 products there. And I saw a lot of South Indians
5 shopping there. So I felt that, you know -- I was in
6 my early 50s at that time and I thought, "I'm going
7 to start something."

8 In my background, I have a lot of
9 friends over the years and all that support and I
10 felt that, "Okay. Let me introduce South Indian
11 products in the North Indian market."

12 That does not mean we restrict to South
13 Indian stores. South Indian stores, you know, are
14 very small stores. Now, the North Indian stores are
15 comparatively very huge stores.

16 So I contacted the people and I brought
17 two containers of product, one from Karnataka and one
18 from Kerala and I brought them because I was new and
19 I was very scared to go to.

20 Q. When you say, "product," are you talking
21 Anand brand product?

22 A. Anand brand snacks. When I took these
23 products to the North Indian stores, they said, "No,
24 we don't sell South Indian products."

25 So I presented the case. I said, "I am

1 chains. I introduced to them and after about eight
2 to ten days, they call me. "Supply another cases."

3 I went all the northeast starting from
4 Massachusetts, Connecticut, New York, New Jersey,
5 Philadelphia, Delaware, Baltimore, Wash -- Maryland,
6 and northern Virginia. I went to all these stores.
7 It took a long time for me to introduce these
8 products.

9 And gradually, they liked the product
10 and that is the first time to my knowledge that, you
11 know, North Indian products -- South Indian products
12 came to the North Indian market.

13 And gradually, you know, we are -- since
14 I work for all British companies, we have an
15 eight-point selling plan going, greeting them and
16 arranging the goods. We call it merchandising.

17 Q. Does this eight-point --

18 A. Selling plain.

19 Q. It came from where?

20 A. I worked with companies like Nestle,
21 Kraft, Kellogg's. They trained me.

22 Q. They have a similar plan?

23 A. Yes. I introduced this plan.

24 Q. Okay.

25 A. And for many people in the Indian market

1 in the U.S.A., it's a novel idea. "Why this guy
2 taking all the inventory from inside under the
3 shelf?" And I made the order. I did not go and ask
4 the people, "What do you want," no, because if I ask,
5 "What do you want," they're going to give me an order
6 of five or six cartons. If I book the order, I sell
7 about 25 to 30 cartons.

8 So I made the order, went to the store.
9 I asked them to introduce those products. And the
10 new products, I introduced gradually. I got on the
11 shelf three feet. My shelf went up to 20 feet.

12 Q. You're talking about shelf space?

13 A. Shelf space.

14 Q. That's for Anand brand products?

15 A. Yes.

16 Q. In the United States?

17 A. Yes.

18 Q. Okay. So the shelf space went from 3 to
19 12?

20 A. Three to ten times. It went up to 20
21 feet in three years time.

22 Q. Okay.

23 A. And then, about --

24 Q. If I could just interrupt you for a
25 minute.

1 with the brands state by state. And all states
2 today, we're selling the brand in 45 states.

3 Q. Okay.

4 A. And I have about four or five years'
5 time that people saw that, big companies, I went to
6 them. I went to Patel Brothers and House of Spices,
7 Deep Foods (ph.) So that caught their eye. We're
8 selling a big amount of South Indian. They're from
9 North Indian. South Indian products are foreign to
10 them.

11 And they also brought the brand called
12 Amma and Deep brand. But, I was aware they are not
13 authentic South Indian products. They can't sell
14 like ours in the market.

15 Q. When you say, "they can't," what do you
16 mean?

17 Why can't they?

18 A. I'm South Indian. If anybody gives me
19 North Indian product and asks, "How is it," for me,
20 with North Indian product, I cannot distinguish which
21 is good and which is bad.

22 I had in my mind they will not be
23 authentic products from South India. And gradually,
24 it came down, their sales. And Anand became still
25 strong, prominent brand in the market.

1 Q. When you say, "strong, prominent brand,"
2 were there other South Indian brands in the market
3 other than Anand at that time?

4 A. There were two new brands. One is
5 called Amma, A-m-m-a. It means mother. And second
6 brand is called Udupi, U-d-u-p-i which is a famous
7 temple in South India. So these two brands came from
8 two big companies and I was scared of their money.

9 Q. What time period was this?

10 A. It's in the year about 2006 or 2007,
11 they started selling it.

12 Q. Just to interrupt. Before 2006 or 2007,
13 did you have any major competitors of South Indian
14 snack foods in the market?

15 A. No, they're the lowest group.

16 Q. So going back to 2006 or 2007 with the
17 two competitors, could you just continue?

18 A. 2006, these two competitors came and
19 they snatched our sales and we were very scared
20 because they were giving heavy discount.

21 But, gradually, because of the quality
22 of the product, their sales came down. Anand still
23 remained as a dominant brand in the market and --

24 Q. When you say, "dominant brand," what do
25 you mean?

1 A. The market share.

2 Q. Okay. And what kind of market share, in
3 your opinion, did or does Anand brand products have
4 today?

5 A. Today, we have -- by talking to the
6 store people and looking at our shelf space, we are
7 about 50 percent market share.

8 MR. GUARINO: Objection. Witness is not
9 qualified to give testimony in this area.

10 Q. And so you said that was based upon --
11 well, one of the things was shelf space.

12 What do you mean?

13 A. The number of feet occupied by each
14 brand and by talking to the shelf manager, how much
15 they buy.

16 Q. When you say talking to them about how
17 much they buy, do they indicate for you what the sale
18 of your South Indian brand products are?

19 A. Yeah, they mention market share.

20 Q. Okay.

21 A. So we estimate. We do not have any
22 official survey. We feel that, you know, we have --
23 anywhere we go, we can see Anand is very prominently
24 displayed from the other two brands.

25 Theirs are shelf space eight to ten

1 feet, but it was reduced to three to four feet.

2 Q. Who is that?

3 A. Amma brand and Udupi space.

4 MR. GUARINO: Can you spell those?

5 THE WITNESS: Amma, A-m-m-a; and Udupi,
6 U-d-u-p-i.

7 Q. Do you go out in the marketplace
8 yourself and see how your products are displayed?

9 A. Yes.

10 Q. And do you also -- on these trips, do
11 you see how your competitors' South Indian products
12 are displayed?

13 A. Yes.

14 Q. And do you take note of the shelf space
15 that you have as opposed to the shelf space of your
16 competitors in the South Indian smack market?

17 A. Yeah.

18 Q. And based upon that, is it your opinion
19 that the shelf space of Anand brand products is
20 larger than the shelf space of any other competitor
21 in the market right now?

22 A. Yeah.

23 Q. By how much?

24 A. Mainly, I can say that all of the
25 brands, you know, we are about -- there are more

1 sale selling products of the markets.

2 Q. Okay. And what is it? What does this
3 represent?

4 A. Landed cost which is from FOB. That is
5 freight on board. Most companies quote FOB. Now,
6 however, land cost from FOB, it cost like, you know,
7 freight and terminal handling charges, truck charges,
8 et cetera -- average, it cost us about 22 to 25
9 percent from FOB to land cost.

10 So on land cost, we keep it about 30 to
11 40 percent to cover our expenses and then we sell it
12 to the supermarkets --

13 Q. Okay.

14 A. -- our stores.

15 Q. And does this represent annual sales of
16 Anand brand products in the United States from the
17 year 2003 to the year 2013?

18 A. Right.

19 Q. And what are -- what were your sales in
20 2014, your wholesale sales of Anand products in the
21 United States?

22 A. 2014, I'm not very sure because we have
23 not produced our results. We have to wait for three
24 weeks. We just come back. So it should be maybe
25 about 2.8.

1 Q. Okay.

2 A. 2.8.

3 Q. Do you mean million dollars?

4 A. Yes.

5 Q. Okay. And what is the typical markup
6 for wholesale which is indicated on Exhibit-7 to
7 retail sales?

8 A. Retail is, okay, between 35 to 40
9 percent on this price. (Witness indicated.)

10 Q. How do you advertise your Anand brand
11 products in the United States?

12 A. Through the newspapers. Through the
13 magazines. And we do commercials. TV commercials in
14 a particular language called Malayalam from the
15 Kerala community which we sell a lot of these
16 products. And other than -- and then, we aired it.
17 Total cost, it was about \$3,000.

18 And then, magazines. We advertise in
19 two magazines.

20 Q. Which magazines are those?

21 A. One Asian Era. It is an English
22 magazine. And another is Malayalam,
23 M-a-l-a-y-a-l-a-m, magazine. We advertise in those
24 regularly.

25 Q. And then, you say you advertise in those

1 And it happened to me and me wife that
2 when we were in Maryland, one supermarket we have
3 Anand and when we saw it, it is Anand Bhogh.

4 And when we were in California once in
5 the northern tip of the state, one of the stores
6 said, you know, "We have Anand snacks," and it was
7 Anand Bhogh.

8 But, our sales managers noticed several
9 times. So they had to convince them, "This is not
10 Anand. This is not Anand product. It is Anand
11 Bhogh." But, they were a little confused because of
12 the name. So we have to convince them about that.

13 And when they say that, you know, do you
14 have any order for that and we make order for our
15 Anand product and then we buy all the Anand Bhogh
16 products after that.

17 Q. Okay.

18 (Whereupon, the Four-Page Local
19 Price List as of February 7, 2014 is received and
20 marked Exhibit-9 for Identification.)

21 Q. Mr. Vaz, you've just been shown what's
22 been marked as Plaintiff's Exhibit No. 9. Just
23 please review it.

24 Does this document come from the books
25 and records of Babco Foods?

1 A. Yes.

2 Q. And what does it represent?

3 A. They are our wholesale selling prices to
4 the market.

5 Q. And does this list show all of the
6 products sold by Babco Foods?

7 A. Yes, Anand products.

8 Q. Okay. And when was this list effective?

9 A. I don't know a date, but, you know, it
10 is the latest supply list. Maybe produced about two
11 months ago.

12 Q. There is a section on the first page, it
13 says, "Kerala pickles, "and there is a strike through
14 it?

15 A. It says local price as of 2-7-14. I'm
16 sorry. That means, February 7, 2014. It is
17 mentioned here.

18 Q. So this was the local price as of
19 February 7, 2014?

20 A. Correct, yes.

21 Q. Drawing your attention to the first page
22 on the strike-throughs.

23 A. Yes.

24 Q. Could you explain what the
25 strike-throughs represent?

1 Q. Mr. Vaz, what does the term Anand mean?

2 A. It means joy, happiness.

3 Q. And why did you pick it? Why did you
4 pick that name?

5 A. It took a long time to give a brand
6 name. We do not want a regional name, related to one
7 state. We wanted a name common to the entire India.
8 First of all, you know, when you eat the snacks, it
9 gives you joy. Secondly, there's a very large
10 community in North India. We greet them. We greet,
11 "Khem cho." How are you? And they reply as, "Anand
12 che." It means, "I'm happy."

13 Q. May be if you could spell the beginning
14 of the salutation?

15 A. That is K-h-e-m, c-h-e.

16 Q. Okay.

17 A. I'm sorry. I mean, k-h-e-m, c-h-o. And
18 they same Anand che.

19 So we felt, you know, it's a national
20 name. Everybody knows it. So let's give this name
21 and when we people eat the snacks, it brings joy.

22 When I mention it took about six months
23 because my wife jumped out of bed and said, "This is
24 the name I want." And it became an instant success
25 because everybody knew that name, Anand.