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

Proceeding	92060188
Party	Plaintiff Applegate Farms, LLC
Correspondence Address	LYNN E RZONCA BALLARD SPAHR LLP 1735 MARKET ST, 51ST FLOOR PHILADELPHIA, PA 19103-7599 UNITED STATES rzoncal@ballardspahr.com, ollera@ballardspahr.com, phila_tmddocketing@ballardspahr.com
Submission	Response to Board Order/Inquiry
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Signature	/Lynn E. Rzonca/
Date	10/20/2014
Attachments	Corrected Certificate of Service 92060188.pdf(55717 bytes )

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

APPLEGATE FARMS, LLC,

Petitioner,

v.

HANSEL 'N GRETEL BRAND, INC.,

Respondent.

Cancellation No. 92060188

Registration No. 2918506

**CORRECTED CERTIFICATE OF SERVICE**  
**FOR PETITION FOR CANCELLATION**

I HEREBY CERTIFY that on the 20<sup>th</sup> day of October, 2014, a true and complete copy of the foregoing Petition for Cancellation was served by First-Class mail, postage pre-paid, to the following owner of record for the registration, at its address of record:

HANSEL 'N GRETEL BRAND INC  
79-36 COOPER AVENUE  
GLENDALE, NEW YORK 11385

*Owner of Registration No. 2918506*

Dated: October 20, 2014

Respectfully submitted,



Lynn E. Rzonca  
Andrea T. Oller  
Ballard Spahr LLP  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103

Attorneys for Petitioner

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

APPLEGATE FARMS, LLC,

Petitioner,

v.

HANSEL 'N GRETTEL BRAND, INC.,

Respondent.

Cancellation No. \_\_\_\_\_

PETITION FOR CANCELLATION

In the matter of Trademark Registration No. 2,918,506 for the mark BIG APPLE dated January 18, 2005:

Applegate Farms, LLC, a Delaware limited liability company having a place of business at 750 Rt. 202 South, Suite 300, Bridgewater, New Jersey, 08807 (“Applegate”), believes it will be damaged by continued registration of the mark shown in the above-identified registration for the goods identified therein and hereby petitions to cancel the same. The grounds for cancellation are as follows:

1. Hansel 'N Gretel Brand, Inc. (“Respondent”) has secured Registration No. 2,918,506 for BIG APPLE as a trademark for “cooked and processed meats, namely ham.”

2. On October 23, 2012, Applegate Farms LLC (“Applegate”) filed application Serial No. 85/761,413 for the mark BIG APPLE HOT DOG for “hotdogs.” On April 1, 2014, Applegate filed a response seeking to amend the description of goods to “undressed hotdogs with no toppings.” On April 29, 2012, the Examining Attorney accepted the amendment. However, the Examining Attorney refused registration of the application under 15 U.S.C. § 1052(d) on the grounds that the mark BIG APPLE HOT DOG, when used in connection with the identified

goods, so resembled the mark BIG APPLE, of Registration No. 2,918,506, so as to be likely to cause confusion, mistake, or to deceive. A copy of the Final Office Action issued by the Trademark Office against Applegate's application to register the mark BIG APPLE HOT DOG, Serial No. 85/761,413, is attached hereto as Exhibit A.

3. On information and belief, Respondent has ceased use in the ordinary course of trade of the mark BIG APPLE for the registered goods.

4. On information and belief, Respondent has therefore abandoned the mark BIG APPLE and, accordingly, the registration for such mark is subject to cancellation on the ground of abandonment.

5. Applegate believes that if the registration for the mark BIG APPLE is permitted to remain in force, it will cause injury and damage to Applegate in that such registration is adverse to Applegate's ability to register its mark BIG APPLE HOT DOG.

6. Applegate is damaged by the existence of the registration of the mark BIG APPLE because such registration has been cited against Applegate's application to register its mark BIG APPLE HOT DOG under application Serial No.85/761,413.

7. If Respondent is permitted to retain the registration for BIG APPLE, it would have thereby at least *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Applegate.

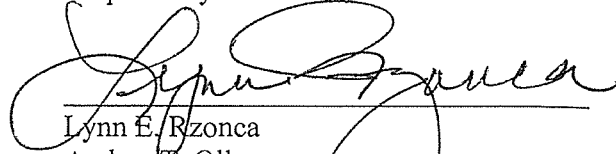
8. Applegate is damaged by the existence of the registration of the mark BIG APPLE as Respondent is not entitled to maintain such registration and enjoy the registration rights established by statute. Accordingly, the registration should be canceled.

WHEREFORE, Applegate prays that Registration No. 2,918,506 be canceled and that this petition is granted.

Please charge the fee of \$300.00 in connection with this Petition for Cancellation to Miscellaneous Account No. 02-0755. Any additional fees in connection with this petition may be charged to such account, and any overpayment may be credited thereto.

Dated: October 15, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lynn E. Rzonca", is written over a horizontal line. The signature is fluid and cursive.

Lynn E. Rzonca  
Andrea T. Oller  
Ballard Spahr LLP  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103

Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Petition for Cancellation was served by first class mail, postage prepaid, to the following counsel of record for Respondent this 15th day of October, 2014:

Paul J. Sutton  
Sutton Magidoff LLP  
909 Third Avenue  
27<sup>th</sup> Floor  
New York, NY 10022

Dated October 15, 2014

  
Andrea T. Oller