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

Proceeding	92060475
Party	Defendant Kradjian Importing Co., Inc.
Correspondence Address	KRADJIAN IMPORTING CO INC 5018 SAN FERNANDO ROAD GLENDALE, CA 912041114 UNITED STATES
Submission	Answer
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Date	01/15/2015
Attachments	Answer to Petition to Cancel - FINAL 1-15-15.pdf(447914 bytes )

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

In the matter of U.S. Registration No. 4111466  
Mark: PIKNIK WHITE CHEESE  
Registration Date: March 13, 2012

GREAT AMERICAN FOODS, INC.

Petitioner,

v.

KRADJIAN IMPORTING CO., INC.

Registrant.

Cancellation No.: 92060475

**ANSWER TO PETITION FOR CANCELLATION**

KRADJIAN IMPORTING CO., INC., (“Kradjian” or “Registrant”) by and through its attorney, hereby answers the Petition to Cancel of Petitioner GREAT AMERICAN FOODS, INC. (“Petitioner”) as follows:

1. Registrant is without 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 on that basis denies each and every allegation contained therein.
2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

4. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

5. Registrant admits that the documents attached to the copy of the Petition for Cancellation it received from Petitioner as Exhibit "A" appear to be print-outs of certificates of registration and TESS information for registration numbers 2,992,160 and 3,035,813. Other than as expressly admitted herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 5 of the Petition for Cancellation and on that basis denies the same.

6. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 6 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

7. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 7 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

8. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 8 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

9. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 9 of the Petition for Cancellation, and on that basis denies each and every allegation contained therein.

10. Registrant admits that the documents attached to the copy of the Petition for Cancellation it received from Petitioner as Exhibit "C" appear to be print-outs of TESS information for registration numbers 538,521, 1,655,660 and 1,755,583. Registrant denies that Exhibit "C" includes any United States Certificates of Registration. Other than as expressly admitted or denied herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 10 of the Petition for Cancellation and on that basis denies the same.

11. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 11 of the Petition for Cancellation, and on that basis denies each and every allegation.

12. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 12 of the Petition for Cancellation, and on that basis denies each and every allegation.

13. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 13 of the Petition for Cancellation, and on that basis denies each and every allegation.

14. Registrant admits that it filed an application for the registration of the mark "PIKNIK WHITE CHEESE" on or about July 7, 2011, which application was assigned the Serial number of 85365155 and that the date of first use was June 1, 1998. Registrant further admits that the mark "PIKNIK WHITE CHEESE" was registered on March 13, 2012 and that the mark

was assigned U.S. Registration number 4,111,466. Other than as expressly admitted herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 14 of the Petition for Cancellation and on that basis denies the same.

15. Registrant denies the allegations in Paragraph 15 of the Petition for Cancellation, that it knew or had reason to know of Petitioner's "Pik-nik" marks at the time it filed the application for its mark.

16. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 16 of the Petition for Cancellation, and on that basis denies each and every allegation.

17. Registrant denies that Petitioner has superior rights to use of the term "piknik" as to the goods offered under Registrant's mark (specifically, cheese.) All of the registrations cited by Petitioner in the Petition to Cancel are for potato-based products or snack foods and *do not* reference cheese or any dairy products. Other than as expressly denied herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 17 of the Petition for Cancellation and on that basis denies the same.

18. Registrant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 18 of the Petition for Cancellation, and on that basis denies each and every allegation.

19. Registrant admits that the documents attached to the copy of the Petition for Cancellation it received from Petitioner as Exhibit "D" appear to be print-outs of TESS information for applications assigned Serial numbers 86063031 and 86063372. Other than as expressly admitted herein, Registrant lacks sufficient information to admit or deny any other

allegations contained in Paragraph 19 of the Petition for Cancellation and on that basis denies the same.

20. Registrant denies that its application for registration of the “PIKNIK WHITE CHEESE” mark should have been refused registration based on the existing “pik-nik” registrations, as those existing registrations were for potato-based snack products only, and Registrant’s goods sold with the mark is specifically cheese. Other than as expressly denied herein, Registration lacks sufficient information to admit or deny any other allegations contained in Paragraph 20 of the Petition for Cancellation and on that basis denies the same.

21. Registrant denies that its mark “PIKNIK WHITE CHEESE” “so resembles” Petitioner’s “pik-nik” mark as to “likely cause confusion, mistake and deception as to the source or origin” of goods and further denies that its mark will “injure and damage Pik-Nik” and its goodwill. Registrant’s goods have been sold under its mark since 1998 and to date, there have been no specific instances of any confusion as between Registrant’s cheese products or Petitioner’s potato-based snack products.

22. Registrant denies any likelihood of confusion between its mark and Petitioner’s mark.

23. Registrant denies that the goods sold under its mark are “so related” to the goods sold under Petitioner’s mark that the public is likely to be confused. Specifically, to date, Registrant has sold only cheese under its mark and Petitioner has only sold “potato-based snack foods” or “canned shoe-string potatoes” (as set forth in the Exhibits attached to Petition for Cancellation.) Further, to date there has been no actual confusion between Registrant’s products and Petitioner’s products. Registrant further denies that the public will assume erroneously that Registrant’s goods are in any way associated with, connected with, licensed by or affiliated with

Petitioner or that Petitioner will suffer any damage therefrom. Other than as expressly denied herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 23 of the Petition for Cancellation and on that basis denies the same.

24. Registrant denies that any likelihood of confusion between its goods or Petitioner's goods exists. Other than as expressly denied herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 24 of the Petition for Cancellation and on that basis denies the same.

25. Registrant admits the allegations of Paragraph 25 of the Petition for Cancellation.

26. Registrant admits that it has not sought Petitioner's permission to use its own registered mark "PIKNIK WHITE CHEESE". Other than as expressly admitted herein, Registrant lacks sufficient information to admit or deny any other allegations contained in Paragraph 26 of the Petition for Cancellation and on that basis denies the same.

27. Registrant lacks sufficient information to admit or deny the allegations contained in Paragraph 27 of the Petition for Cancellation and on that basis denies the same.

28. Registrant lacks sufficient information to admit or deny the allegations contained in Paragraph 28 of the Petition for Cancellation and on that basis denies the same.

29. Registrant denies that its "PIKNIK WHITE CHEESE" mark will cause any dilution by blurring of the "distinctive quality" of Petitioner's marks. Other than as expressly denied herein, Registrant lacks sufficient information to admit or deny the other allegations contained in Paragraph 29 of the Petition for Cancellation and on that basis denies the same.

30. Registrant denies the allegations of Paragraph 30 of the Petition for Cancellation.

31. Registrant denies the allegations of Paragraph 31 of the Petition for Cancellation, that the use of its mark "casts a cloud" on Petitioner's rights to use its marks on its snack foods.

32. Registrant denies the allegations of Paragraph 32 of the Petition for Cancellation, that it is not the rightful owner of the “PIKNIK WHITE CHEESE” mark.

33. Registrant denies the allegations of Paragraph 33 of the Petition for Cancellation, that it obtained its registration of the “PIKNIK WHITE CHEESE” mark by fraud. Registrant further denies that any statements made in connection with its application for registration of the mark were false or were made with knowledge of falsity.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

1. As a First Affirmative Defense, Registrant alleges that the Petition for Cancellation fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

2. As a Second Affirmative Defense, Registrant alleges that the Petition for Cancellation is barred in whole or in part by the doctrine of laches.

#### **THIRD AFFIRMATIVE DEFENSE**

3. As a Third Affirmative Defense, Registrant alleges that the Petition for Cancellation is barred in whole or in part by the doctrines of waiver, acquiescence, and estoppel.

#### **FOURTH AFFIRMATIVE DEFENSE**

4. As a Fourth Affirmative Defense, Registrant alleges that Petitioner has not and will not be damaged by the continued registration of Registrant’s mark “PIKNIK WHITE CHEESE” and therefore lacks standing to petition to cancel the registration.



WHEREFORE, Registrant Kradjian Importing Co. Inc. requests that the Petition for Cancellation be dismissed with prejudice.

DATED: January 15, 2015

Respectfully submitted,  
COHEN LAW, A PLC

A handwritten signature in blue ink, appearing to read "Amy M. Cohen", written over a horizontal line.

Amy M. Cohen, Esq.  
CA Bar Number 203190  
Attorney of Record for Registrant,  
Kradjian Importing Co., Inc.

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**CERTIFICATE OF SERVICE ON PETITIONER**

I hereby certify that a true and complete copy of the foregoing ANSWER TO PETITION TO CANCEL has been served on Petitioner Great American Foods, Inc. by mailing said copy on January 15 2015, via First Class Mail, postage prepaid to its attorney of record, addressed as follows:

Christi Riamondi  
Randick O'Dea & Tooliatos, LLP  
5000 Hopyard Road, Suite 225  
Pleasanton, CA 94588

Dated: January 15 2015

  
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Amy M. Cohen