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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Notti LLC		
Entity	LLC	Citizenship	DELAWARE
Address	214 GLADE VALLEY CHURCH ROAD PO BOX 537 GLADE VALLEY, NC 28627 UNITED STATES		

Correspondence information	MARGARET BITLER Notti LLC 214 GLADE VALLEY CHURCH ROAD PO BOX 537 GLADE VALLEY, NC 28627 UNITED STATES PEGGYBITLER@AOL.COM Phone:917 374 1240
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Registration Subject to Cancellation

Registration No	4409158	Registration date	10/01/2013
International Registration No.	NONE	International Registration Date	NONE
Registrant	Peeters Produkten B.V. Leemstraat 13 NETHERLANDS		

Goods/Services Subject to Cancellation

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Speads containing chocolate and spread-consisting of speculaas made from emulsified spiced biscuits and gingerbread cookies; confectionery, namely, cookies, candy, chocolate and chocolate dips; cocoa products, namely, cocoa spreads, cocoamixes, and cocoa

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Related Proceedings	92064667
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4016439	Application Date	11/12/2009
Registration Date	08/23/2011	Foreign Priority Date	NONE

Word Mark	NOTTI TOFFEE
Design Mark	NOTTI TOFFEE
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2009/11/20 First Use In Commerce: 2009/11/20 Candy

U.S. Registration No.	4771828	Application Date	09/17/2014
Registration Date	07/14/2015	Foreign Priority Date	NONE

Word Mark	NOTTI BOYS
Design Mark	NOTTI BOYS
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Bakery goods and dessert items, namely, cakes, cookies, pastries, candies, and frozen confections for retail and wholesale distribution and consumption on or off the premises; Cookies

Attachments	77871709#TMSN.png(bytes) 86397551#TMSN.png(bytes) PETITION TO CANCEL 2.pdf(32747 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	//MargaretHBitler//
Name	MARGARET H BITLER

Date	11/03/2016
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**PETITION TO CANCEL
REGISTRATION NO. 4409158
FOR THE MARK COOKINOTTI**

1. Petitioner, NOTTI LLC, believes that it will be irretrievably damaged should the confusingly similar mark listed under Registration No. 4409158 for COOKINOTTI be allowed to remain on the register.

2. Petitioner began using the term NOTTI TOFFEE as a trademark for its butter crunch toffee products in November 2009.

3. Petitioner filed an intent to use trademark application to protect its rights in the mark on November 12, 2009. The NOTTI TOFFEE mark registered on August 23, 2011 and was assigned Registration Number 4016439. The NOTTI TOFFEE registration is over 5 years old.

4. Petitioner disclaimed the term TOFFEE apart from the mark as shown, such that the term NOTTI is the significant, distinctive and defining term of Petitioner's mark.

5. Petitioner asserts that the term NOTTI has no descriptive or tangential relationship to food products and the term NOTTI is therefore unique and distinctive.

6. Registrant does not disclaim the term COOKI(E) apart the mark as shown since the term COOKI and NOTTI are combined without a space. Registrant's product is specified for goods including cookies, (among other things), and as such the term NOTTI is the only significant and defining term in Registrant's COOKINOTTI mark.

7. Petitioner asserts that there are no other marks for any food product that use the distinctive term NOTTI in their mark apart from Petitioner's marks and Registrant's infringing mark for COOKINOTTI.

8. In September of 2009, Petitioner incorporated its business in Delaware under the name NOTTI LLC and began and continues to call its business NOTTI LLC.

9. In November 2009, Petitioner began using the term NOTTI in connection with other products, namely cookies and cheese wafers, which are in the natural area of expansion of its toffee products.

10. This natural area of expansion is evidenced by Petitioner's own and immediate expansion of the use of the term NOTTI in to these goods.

11. Petitioner asserts that this fact is underscored by Petitioner's use of the term NOTTI in connection with cookie and cracker products and the sale of cookie and cracker products under the following names:

NOTTI COOKIE for a flower shaped sugar cookie
NOTTI BOYS – miniature gingerbread men cookies
NOTTI ANGELS – miniature gingerbread angels cookies
NOTTI HEARTS – heart shaped sugar cookie
NOTTI BUNNIES- bunny shaped sugar cookies
NOTTI MOMMIES – high heeled shaped sugar cookies
NOTTI DADDY - tie shaped sugar cookies
NOTTI BOO – ghost shaped sugar cookies
NOTTI CHEESE – crispy cheese wafers

12. Petitioner’s use of the term NOTTI in connection with all of these products has been and continues to be presented clearly and openly on Petitioner’s website.

13. Petitioner filed a trademark application for NOTTI BOYS for “bakery goods namely cakes, cookies, pastries, candies, and frozen confections” on September 17, 2014 and was granted registration Number 4771828 on July 14, 2015. With both of the NOTTI TOFFEE and NOTTI BOYS registrations on the Register, it is hard to comprehend how the Examiner allowed the application for COOKINOTTI to proceed past the application stage.

14. Petitioner’s use of the term NOTTI COOKIE as well as the use of the term NOTTI in connection with all of its other cookie and cracker products will be directly harmed by any use of the term COOKINOTTI by Registrant because Registrant’s mark and Registrant’s goods bearing this mark are likely to be confused with Petitioner’s marks, products and company.

15. It is Petitioner’s position that the USPTO should not allow this directly confusing mark, COOKINOTTI, to remain on the Register.