

ESTTA Tracking number: **ESTTA864000**

Filing date: **12/11/2017**

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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Colombina S.A.		
Entity	Corporation	Citizenship	Colombia
Address	La Paila Zarzal, Valle del Cauca, 0 COLOMBIA		

Attorney information	Gary J. Nelson Lewis Roca Rothgerber Christie LLP P.O. Box 29001 Glendale, CA 91209 UNITED STATES Email: pto@lrrc.com, ctoomey@lrrc.com, gnelson@lrrc.com Phone: 626-795-9900
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Registrations Subject to Cancellation

Registration No.	3217914	Registration date	03/13/2007
Registrant	Amazonas Imports, Inc. 10848 Cantara Street Sun Valley, CA 91352 UNITED STATES Email: skb@msk.com		

Goods/Services Subject to Cancellation

<p>Class 029. First Use: 2003/03/20 First Use In Commerce: 2003/03/20 All goods and services in the class are subject to cancellation, namely: Processed olives, dried olives, processed edible seeds, processed peppers, processed quince, processed fruits, processed vegetables, canned fruits, canned vegetables, fruit preserves, [mixes of seafood,] dried beans, processed beans, lentils, fruit paste, frozen fruits, frozen vegetables [and clams]</p>
<p>Class 030. First Use: 2003/03/20 First Use In Commerce: 2003/03/20 All goods and services in the class are subject to cancellation, namely: Seasonings, pepper sauce, sauces, flour for food, food starch, cocoa, husked barley, sugar, processed herbs, spices, cakes, crackers, cookies, wafers, rice flour, corn flour, potato flour, bean flour, corn meal, instant pudding mixes, soy flour, wheat flour, corn curls, processed corn, hominy, condiments, namely ketchup, honey, bread mixes, donut mixes, soysauce, processed wheat, vanilla, tamales, tortillas, herb teas, fruit teas, salsa, garlic sauce, basil sauce, carob sauce, chipotle sauce, habanera sauce, mintsauce, potato sauce and hot sauce, corn-based drink mixes in the nature of a food beverage consisting primarily of corn, flour-based drink mixes in the nature of a food beverage consisting primarily of flour</p>
<p>Class 032. First Use: 2003/03/20 First Use In Commerce: 2003/03/20 All goods and services in the class are subject to cancellation, namely: Fruit drinks, fruit juices, fruit nectars, soft drinks, powders used in the preparation of soft drinks, concentrates used in the preparation of soft drinks, and guarana drinks</p>

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)		
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute	Trademark Act Sections 14(3) and 2(a)		
Registration No.	3196195	Registration date	01/09/2007
Registrant	AMAZONAS IMPORTS, INC. 10848 CANTARA STREET SUN VALLEY, CA 91352 UNITED STATES Email: mgr@amcf.com		

Goods/Services Subject to Cancellation

Class 030. First Use: 2003/03/20 First Use In Commerce: 2004/04/01 All goods and services in the class are subject to cancellation, namely: Ice Cream
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)		
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute	Trademark Act Sections 14(3) and 2(a)		
Registration No.	3198178	Registration date	01/16/2007
Registrant	AMAZONAS IMPORTS, INC 10848 CANTARA STREET SUN VALLEY, CA 91352 UNITED STATES Email: mgr@amcf.com		

Goods/Services Subject to Cancellation


Class 029. First Use: 2003/03/20 First Use In Commerce: 2004/04/01 All goods and services in the class are subject to cancellation, namely: [Meat, fish, poultry, and game; meat extracts;] preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces, namely, applesauce and cranberry sauce; [eggs,] milk, dairy products excluding ice cream, ice milk and frozen yogurt; edible oils and fats

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)		
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute	Trademark Act Sections 14(3) and 2(a)		

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2934457	Application Date	12/05/2003
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Registration Date	03/22/2005	Foreign Priority Date	NONE
Word Mark	AMAZON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1995/05/01 First Use In Commerce: 1995/05/01 PROCESSED PEPPERS IN VINEGAR Class 030. First use: First Use: 1995/05/01 First Use In Commerce: 1995/05/01 PEPPER SAUCES		

Attachments	76563406#TMSN.png(bytes) 402755 00058 Combined Petition for Cancellation.pdf(407233 bytes)
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Signature	/Gary J. Nelson/
Name	Gary J. Nelson
Date	12/11/2017

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

In the matter of Trademark Registration Nos. 3,217,914 and 3,196,195 and 3,198,178



For the Marks and and
Registered on March 13, 2007, January 9, 2007, and January 16, 2007

Colombina S.A.

Petitioner,

v.

Amazonas Imports, Inc.

Registrant.

Cancellation No. TBD

COMBINED PETITION FOR
CANCELLATION

Petitioner Colombina S.A. ("Petitioner"), a Colombia corporation having a principal place of business in Valle del Cauca, Colombia, believes that it is or will be damaged by the continued registration of the marks of United States Registration Nos. 3,217,914 and 3,196,195 and 3,198,178, and hereby petitions to cancel said registrations.

The grounds for cancellation are as follows:

Cancellation Proceeding No. [TBD]

1. On information and belief, Registrant Amazonas Imports, Inc. ("Registrant") was a California Corporation having a principal place of business at 10848 Cantara Street, Sun Valley, California, United States 91352.

2. Registrant's current status with the California Secretary State is FTB Suspended. Submitted herewith and made of record as Exhibit A is a one page print out of the Business Entity Detail for Amazonas Imports, Inc. as of November 30, 2017, indicating the entity status for Registrant is FTB Suspended.

3. On information and belief, Registrant's business was suspended on or before December 6, 2014, and has not been reinstated at any time between the date of suspension and the date of filing this Notice.

4. Petitioner is the owner of United States Trademark Registration No. 2,934,457 for the mark shown below for PROCESSED PEPPERS IN VINEGAR in International Class 029 and for PEPPER SAUCES in International Class 030 (the "'457 Registration"). The '457 Registration is valid, incontestable, and subsisting on the Principal Register and issued on March 22, 2005.



Cancellation Proceeding No. [TBD]

A printout of the official record for the '457 Registration is submitted herewith and made of record as Exhibit B. The subject mark of the '457 Registration is referred to herein as "Petitioner's Registered Trademark."

5. Petitioner and/or its predecessors-in-interest have adopted and continuously used Petitioner's Registered Trademark since at least as early as May 1, 1995, which has been continuous to the present in connection with the sale of various food products, including processed peppers in vinegar and pepper sauces.

6. Registration No. 3,217,914, sought to be cancelled, is for the mark shown below, registered for "Processed olives, dried olives, processed edible seeds, processed peppers, processed quince, processed fruits, processed vegetables, canned fruits, canned vegetables, fruit preserves, [mixes of seafood,] dried beans, processed beans, lentils, fruit paste, frozen fruits, frozen vegetables [and clams]" in International Class 029, "Seasonings, pepper sauce, sauces, flour for food, food starch, cocoa, husked barley, sugar, processed herbs, spices, cakes, crackers, cookies, wafers, rice flour, corn flour, potato flour, bean flour, corn meal, instant pudding mixes, soy flour, wheat flour, corn curls, processed corn, hominy, condiments, namely ketchup, honey, bread mixes, donut mixes, soy sauce, processed wheat, vanilla, tamales, tortillas, herb teas, fruit teas, salsa, garlic sauce, basil sauce, carob sauce, chipotle sauce, habanera sauce, mint sauce, potato sauce and hot sauce, corn-based drink mixes in the nature of a food beverage consisting primarily of corn, flour-based drink mixes in the nature of a food beverage consisting primarily of flour" in International Class 030, and "Fruit drinks,

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fruit juices, fruit nectars, soft drinks, powders used in the preparation of soft drinks, concentrates used in the preparation of soft drinks, and guarana drinks” in International Class 032 (the “’914 Registration”).



7. Registration No. 3,196,195, sought to be cancelled, is for the mark shown below, registered for “Ice Cream” in International Class 030 (the “’195 Registration”).



8. Registration No. 3,198,178, sought to be cancelled, is for the mark shown below, registered for “[Meat, fish, poultry, and game; meat extracts;] preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces, namely, applesauce and cranberry sauce; [eggs,] milk, dairy products excluding ice cream, ice milk and frozen yogurt; edible oils and fats” in International Class 029 (the “’178 Registration”) (collectively, with the ’914 Registration and the ’195 Registration, “Registrant’s Trademark Registrations”).



Cancellation Proceeding No. [TBD]

9. Petitioner has expended considerable effort and expense in promoting Petitioner's Registered Trademark in association with its food products. The purchasing public has come to know, rely upon, and recognize the goods of Petitioner with Petitioner's Registered Trademark, and has come to know Petitioner as the subject mark of Petitioner's Registered Trademark. Petitioner has exceedingly valuable goodwill established in Petitioner's Registered Trademark for a wide array of food products.

10. If Registrant is permitted to retain the registrations sought to be cancelled and thereby, the *prima facie* exclusive right to use in commerce the subject marks of those registrations on the listed goods, which goods are substantially identical to and/or closely related to the goods offered by Petitioner, confusion in the trade is likely to result from any concurrent use of Petitioner's Registered Trademark and those of the Registrant, all to the great detriment of Petitioner, who has expended considerable sums and effort in promoting its name and mark.

Abandonment for Failure to Use Petitioner's Registered Trademark

11. Petitioner realleges and incorporates by reference paragraphs 1-10, inclusive.

12. Upon information and belief, Registrant does not manufacture or sell goods bearing the subject marks of Registrant's Trademark Registrations for any of the goods listed in any of Registrant's Trademark Registrations.

Cancellation Proceeding No. [TBD]

13. Upon information and belief, Registrant does not own or control any entity located or doing business in the United States that manufactures or sells goods bearing the subject marks of Registrant's Trademark Registrations for any of the goods listed in any of Registrant's Trademark Registrations.

14. Upon information and belief, Registrant has no intention of ever making *bona fide* lawful use of the marks sought to be cancelled in commerce in the United States in connection with any of the goods recited in Registrant's Trademark Registrations.

15. Wherefore, Registrant has abandoned the purported marks of Registrant's Trademark Registrations within the meaning of Sections 14(3) and 45 of the Lanham Act, 15 U.S.C. §§ 1064(3) and 1127, and said registrations should be cancelled as prayed for hereinafter.

Partial Abandonment

16. Petitioner realleges and incorporates by reference paragraphs 1-15, inclusive.

17. Alternatively, if Registrant has made continuous *bona fide* lawful use, or demonstrably has the intent to make *bona fide* lawful use, in commerce in the United States of the subject marks of Registrant's Registered Trademarks with respect to any of the Class 29, Class 30, or Class 32 Goods, Registrant has abandoned said marks with respect to all other goods recited in said registrations.

Cancellation Proceeding No. [TBD]

18. Wherefore, the subject marks of Registrant's Registered Trademarks have been abandoned within the meaning of Sections 14(3) and 45 of the Lanham Act, 15 U.S.C. §§ 1064(3) and 1127, and said registrations should be corrected and a partial cancellation thereof should be ordered as prayed for hereinafter.

Abandonment Through Prohibition On Use of Petitioner's Registered Trademark

19. Petitioner realleges and incorporates by reference paragraphs 1-18, inclusive.

20. Upon information and belief, Registrant was a registered California Corporation whose current status with the California Secretary of State is FTB Suspended. As such, Registrant cannot legally transact business.

21. Upon information and belief, such suspension took place on or before December 6, 2017, and therefore Registrant has not legally used Registrant's Trademark Registrations for three consecutive years.

22. Registrant cannot legally make a *bona fide* lawful use as a Suspended FTB California corporation of the marks sought to be cancelled in commerce in the United States in connection with any of the goods recited in Registrant's Trademark Registrations.

23. Wherefore, Registrant has abandoned the purported marks of Registrant's Trademark Registrations within the meaning of Sections 14(3) and 45 of the Lanham

Cancellation Proceeding No. [TBD]

Act, 15 U.S.C. §§ 1064(3) and 1127, and said registrations should be cancelled as prayed for hereinafter.

False Suggestion of a Connection

24. Petitioner realleges and incorporates by reference paragraphs 1-23, inclusive.

25. Through Petitioner's extensive use of Petitioner's Registered Trademark, the consuming public has come to associate Petitioner with Petitioner's Registered Trademark such that Petitioner's Registered Trademark is perceived as being, in effect, Petitioner's identity.

26. The subject marks of Registrant's Registered Trademarks are a close approximation of Petitioner's Registered Trademark, which is considered by the public to be Petitioner's identity.

27. The subject marks of Registrant's Registered Trademarks would be recognized as such because each of the marks uniquely and unmistakably points to Petitioner.

28. Petitioner is not connected with the goods or services offered by Registrant under Registrant's Registered Trademarks.

29. Petitioner's name, i.e., the subject mark of Petitioner's Registered Trademark, which Petitioner started using more than a decade prior to Registrant's first use of Registrant's Registered Trademarks, has a reputation such that the consuming

Cancellation Proceeding No. [TBD]

public would presume a connection with Petitioner when Registrant's Registered Trademarks are used on Registrant's goods.

30. Wherefore, Registrant's use creates a false connection with Petitioner within the meaning of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), and said registrations should be cancelled as prayed for hereinafter.


WHEREFORE, Petitioner prays that Registration Nos. 3,217,914 and 3,196,195 and 3,198,178 be canceled in their entirety, and that this petition for cancellation be sustained in favor of Petitioner.

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

Dated: December 9, 2017

By



Gary J. Nelson
Attorneys for Petitioner
P.O. Box 29001
Glendale, CA 91209-9001
(626) 795-9900

GJN/sis

Exhibit A

 Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Wednesday, November 29, 2017. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

C1341675 AMAZONAS IMPORTS, INC.

Registration Date: 06/06/1985
 Jurisdiction: CALIFORNIA
 Entity Type: DOMESTIC STOCK
 Status: FTB SUSPENDED
 Agent for Service of Process: LORNA VELIZ
 308 SOUTHRIDGE DR
 OAK PARK CA 91377
 Entity Address: 10848 CANTARA ST
 SUN VALLEY CA 91352
 Entity Mailing Address: 10848 CANTARA ST
 SUN VALLEY CA 91352

Document Type	File Date	PDF
SI-COMPLETE	06/16/2010	
REGISTRATION	06/06/1985	Image unavailable. Please request paper copy.

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- If the image is not available online, for information on ordering a copy refer to [Information Requests](#).
- For information on ordering certificates, status reports, certified copies of documents and copies of documents not currently available in the Business Search or to request a more extensive search for records, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

Exhibit B



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Word Mark	AMAZON
Goods and Services	IC 029. US 046. G & S: PROCESSED PEPPERS IN VINEGAR. FIRST USE: 19950501. FIRST USE IN COMMERCE: 19950501
	IC 030. US 046. G & S: PEPPER SAUCES. FIRST USE: 19950501. FIRST USE IN COMMERCE: 19950501
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.15.14 - Macaws; Parrots; Toucans 03.15.24 - Stylized birds and bats 05.03.10 - Other branches with leaves, with or without fruit
Serial Number	76563406
Filing Date	December 5, 2003
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 28, 2004
Registration Number	2934457
Registration Date	March 22, 2005
Owner	(REGISTRANT) Comexa Ltda. CORPORATION COLOMBIA P.O. Box 15100 Cartagena COLOMBIA
	(LAST LISTED OWNER) COLOMBINA S.A. CORPORATION COLOMBIA LA PAILA ZARZAL, VALLE COLOMBIA
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Michael J. MacDermott
Prior Registrations	2143628
Description of Mark	Color is not claimed as a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)-IN PART
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20150302.
Renewal	1ST RENEWAL 20150302

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