

ESTTA Tracking number: **ESTTA933643**

Filing date: **11/07/2018**

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	B & E Poultry, Inc.		
Entity	Corporation	Citizenship	Pennsylvania
Address	154 West Main Street Fredericksburg, PA 17026 UNITED STATES		

Attorney information	Robert J. Duminiak Howson & Howson LLP Bldg. 620, Ste. 210 350 Sentry Parkway Blue Bell, PA 19422 UNITED STATES docketing@howsoniplaw.com, rduminiak@howsoniplaw.com 215-540-9200		
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Registration Subject to Cancellation

Registration No.	5167222	Registration date	03/21/2017
Registrant	MONOGRAM FOOD SOLUTIONS, LLC 530 OAK COURT DR STE 400 MEMPHIS, TN 381173735 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2011/09/00 First Use In Commerce: 2011/09/00 All goods and services in the class are subject to cancellation, namely: Processed meats, namely, bacon

Grounds for Cancellation

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

U.S. Application No.	87014186	Application Date	04/26/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FARMERS PRIDE		

Design Mark	<h1>FARMERS PRIDE</h1>
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1940/12/31 First Use In Commerce: 1940/12/31 dressed fresh and frozen poultry

Attachments	87014186#TMSN.png(bytes) FARMERS_PRIDE_Design_20181107_PetitionforCancellation.pdf(83789 bytes)
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Signature	/RJD/
Name	Robert J. Duminiak
Date	11/07/2018

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

B & E Poultry, Inc.,

Petitioner,

v.

Monogram Food Solutions, LLC,

Respondent.

In re Registration No. 5167222

Mark:



[Word Mark: FARMER'S PRIDE]

Registered: March 21, 2017

Proceeding No. _____

PETITION FOR CANCELLATION

B & E Poultry, Inc., a Pennsylvania corporation located at 154 West Main Street, Fredericksburg, Pennsylvania 17026 ("Petitioner") believes that it will be damaged by the continued registration of the above-captioned mark ("Respondent's Mark"), which is the subject of U.S. Trademark Registration Number 5167222 ("Respondent's Registration") to Monogram Food Solutions, LLC. ("Respondent"). Respondent is a Delaware limited liability company located at 530 Oak Court Drive, Suite 400, Memphis, Tennessee 38117. Petitioner hereby petitions to cancel U.S. Registration No. 5167222.

As grounds for cancellation, Petitioner alleges as follows:

1. Petitioner is the Applicant of U.S. Trademark Application No. 87014186, filed April 26, 2016 (the "'186 Application"), for mark FARMERS PRIDE (the "FARMERS PRIDE Mark").

2. The '186 Application alleges a date of first use of December 31, 1940.



3. Petitioner has used the FARMERS PRIDE Mark in interstate commerce for “dressed fresh and frozen poultry” since at least as early as December 31, 1940.

4. Respondent’s Registration was filed in the United States under §1(b) (15 U.S.C. §1051(b)) on July 17, 2015.

5. Respondent has alleged use of Respondent’s Mark in interstate commerce for “[p]rocessed meats, namely, bacon,” since at least as early as September 2011.

6. Respondent’s Registration is directed to Respondent’s Mark, which “consists of the words “FARMER’S PRIDE” displayed in a stylized, stacked format; the image of a barn and silo is displayed to the right of the words.”

7. Petitioner’s rights in the FARMERS PRIDE Mark, including the goods recited in the ‘186 Application, predate Respondent’s alleged use of Respondent’s Mark.

8. On May 7, 2018, Petitioner’s ‘186 Application was finally refused based on an alleged likelihood of confusion with Respondent’s Mark in Respondent’s Registration.

9. Petitioner is damaged by the continued registration of Respondent’s Mark that is the subject of Respondent’s Registration, because Respondent’s Registration is relied upon as a basis for refusal of Petitioner’s ‘186 Application.



10. To the extent that Petitioner's use of its FARMERS PRIDE Mark for any of the goods contained in its '186 Application, at common law, or on any confusingly similar goods, is likely to cause confusion, mistake, or deception in connection with Respondent's use of Respondent's Mark, or to cause the mistaken belief that Respondent's goods are in some way legitimately connected with, sponsored by, or approved by Petitioner, Petitioner is damaged by the continued registration of Respondent's Mark that is the subject of Respondent's Registration.

WHEREFORE, Petitioner believes that it will be damaged by the continued registration of Respondent's Mark in 5167222 to the extent that it is maintained as a basis for refusal of Petitioner's '186 Application, and respectfully requests that this petition for cancellation be sustained and that Registration No. 5167222 be cancelled in its entirety.

Please charge the required \$400 filing fee, or any deficiency, and credit any overpayment, to the Deposit Account of Howson & Howson LLP, Account No. 08-3040.

Respectfully submitted,
HOWSON & HOWSON LLP
Attorneys for Petitioner,
B & E Poultry, Inc.

Dated: November 7, 2018

By: /Robert Duminiak/
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