

ESTTA Tracking number: **ESTTA992358**

Filing date: **08/02/2019**

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	Three Dog Bakery, LLC		
Entity	LIMITED LIABILITY COMPANY	Citizenship	DELAWARE
Address	1843 N. Topping Avenue Kansas City, MO 64120 UNITED STATES		

Attorney information	Matthew P. Frederick Reed Smith LLP 1717 Arch Street, Suite 3100 Three Logan Square Philadelphia, PA 19103 UNITED STATES phlipdocketing@reedsmith.com, mfrederick@reedsmith.com, cwinter@reedsmith.com, cnye@reedsmith.com 215-241-7992
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**Registration Subject to Cancellation**

Registration No.	2245081	Registration date	05/11/1999
Registrant	THOMPSON HOLDINGS, L.P. 400 PLAZA DRIVE, 1ST FLOOR SECAUCUS, NJ 07094 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 031. First Use: 1998/08/28 First Use In Commerce: 1998/08/28 All goods and services in the class are subject to cancellation, namely: dog treats
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**Grounds for Cancellation**

Abandonment	Trademark Act Section 14(3)
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Attachments	88528436_Petition to Cancel_08022019.pdf(513028 bytes ) 88528436_Exhibit A.pdf(68345 bytes )
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Signature	/Matthew P. Frederick/
Name	Matthew P. Frederick
Date	08/02/2019



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

Three Dog Bakery, LLC	)	
	)	
Petitioner,	)	
	)	Cancellation No. _____
v.	)	
	)	Registration No. 2,245,081
Thompson Holdings, L.P.,	)	
	)	
Respondent.	)	

**PETITION TO CANCEL**

Three Dog Bakery, LLC ("Petitioner"), believes that it will be damaged by the continued registration of U.S. Trademark Registration No. 2,245,081 for the mark PETZELS (the "Registration"), and hereby petitions for cancellation of same pursuant to Section 14(3) of the Lanham Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. § 1064(3). As grounds for cancellation, Petitioner alleges as follows:

**Petitioner**

1. Petitioner is a Limited Liability Company organized and existing under the laws of Delaware with a principal place of business at 1843 N. Topping Avenue, Kansas City, MO 64120.
2. Petitioner plans to use the mark PET-ZEL BITES in U.S. commerce in connection with animal foodstuffs, commencing on or around October 2019. Petitioner has taken substantial steps towards using its PET-ZEL BITES mark in connection with these goods, including making substantial steps to begin commercial manufacturing of these goods. In view of these steps, Petitioner is significantly invested and has a real interest in the PET-ZEL BITES mark.
3. Petitioner has filed Application Serial No. 88/528,436 (the "Application") for the PET-ZEL BITES mark in connection with "animal foodstuffs." The Application is pending.

Attached hereto as Exhibit A is a true and correct printout from the United States Patent and Trademark Office ("USPTO") electronic database reflecting the pending Application.

4. Because Respondent's PETZELS mark and Petitioner's PET-ZEL BITES mark share the letters PET[-]ZEL and the goods identified in the Registration may be alleged to be included in the goods identified in Petitioner's Application, it is anticipated that the USPTO will issue an office action refusing registration of the Application on the basis of a likelihood of confusion with Respondent's registered PETZELS mark as identified in the Registration, thereby interfering with Petitioner's Application and causing harm to Petitioner.

5. Because Petitioner is in the business of manufacturing, distributing, and selling the goods identified in the Respondent's Registration, namely "dog treats", and because Petitioner plans to use the PET-ZEL BITES mark in connection with these goods, the continued validity of Respondent's Registration interferes with the Petitioner's current business plans.

6. Petitioner therefore has a real interest in seeking cancellation of the Registration and standing to bring this action.

#### **Respondent and its PETZELS Mark**

7. Upon information and belief, Respondent is listed in the USPTO's TSDR database as both a Corporation organized and existing under the laws of Delaware with an address of 400 Plaza Drive, 1st Floor, Secaucus, NJ 07094, and a Limited Partnership organized and existing under the laws of Delaware with an address of 8th Floor, 632 Broadway, New York, NY 10012. Upon information and belief, no email address is listed in the file history of the Registration, or otherwise known for Respondent.

8. Upon information and belief, Respondent is the current listed owner of the Registration.

9. Upon information and belief, the attorney of record for the Registration is listed as Cheryl L. Burbach, Hovey Williams LLP, 10801 Mastin Blvd., Suite 1000, Overland Park, KS 66210, with an email address of mailbox@hoveywilliams.com.

**Count I: Abandonment, 15 U.S.C. § 1064(3)**

10. Petitioner repeats and re-alleges each and every allegation set forth above.

11. On information and belief, Respondent has discontinued use of the PETZELS mark in connection with all of the goods identified in the Registration for a period exceeding three years. On information and belief, Respondent intends not to resume use of the mark in U.S. commerce.

12. Accordingly, Respondent has abandoned the PETZELS mark, and Registration No. 2,245,081 is subject to cancellation pursuant to 15 U.S.C. § 1064(3).

WHEREFORE, Petitioner respectfully prays that its cancellation be sustained and that Respondent's Registration No. 2,245,081 be cancelled.

Dated: August 2, 2019

Respectfully submitted,  
/s/ Matthew P. Frederick  
Matthew P. Frederick  
Registration No. 60,469  
REED SMITH LLP  
1717 Arch Street, Suite 3100  
Three Logan Square  
Philadelphia, PA 19103  
(215) 851-8100 Telephone  
(215) 851-1420 Facsimile

*Attorney for Petitioner*

# **EXHIBIT A**

# PET-ZEL BITES

## Trademark/Service Mark Application, Principal Register

Serial Number: 88528436

Filing Date: 07/22/2019

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88528436
<b>MARK INFORMATION</b>	
*MARK	<a href="#">PET-ZEL BITES</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	PET-ZEL BITES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Three Dog Bakery, LLC
*STREET	1843 N. Topping Avenue
*CITY	Kansas City
*STATE (Required for U.S. applicants)	Missouri
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	64120
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Delaware
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	031
*IDENTIFICATION	Animal foodstuffs
FILING BASIS	SECTION 1(b)
<b>ATTORNEY INFORMATION</b>	
NAME	Matthew P. Frederick
ATTORNEY DOCKET NUMBER	T34049US00
FIRM NAME	Reed Smith LLP
INTERNAL ADDRESS	Suite 3100
STREET	1717 Arch Street, Three Logan Square



<b>CITY</b>	Philadelphia
<b>STATE</b>	Pennsylvania
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	19103
<b>PHONE</b>	215-851-8100
<b>FAX</b>	215-851-1420
<b>EMAIL ADDRESS</b>	phlipdocketing@reedsmith.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	Ryan P. Cox, Reg. No. 71,444; Christopher A. Winter
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Matthew P. Frederick
<b>FIRM NAME</b>	Reed Smith LLP
<b>INTERNAL ADDRESS</b>	Suite 3100
<b>STREET</b>	1717 Arch Street, Three Logan Square
<b>CITY</b>	Philadelphia
<b>STATE</b>	Pennsylvania
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	19103
<b>PHONE</b>	215-851-8100
<b>FAX</b>	215-851-1420
<b>*EMAIL ADDRESS</b>	phlipdocketing@reedsmith.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>APPLICATION FILING OPTION</b>	TEAS RF
<b>NUMBER OF CLASSES</b>	1
<b>APPLICATION FOR REGISTRATION PER CLASS</b>	275
<b>*TOTAL FEE DUE</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/Aziz Giga/
<b>SIGNATORY'S NAME</b>	Aziz Giga
<b>SIGNATORY'S POSITION</b>	Chairman
<b>DATE SIGNED</b>	07/22/2019

## Trademark/Service Mark Application, Principal Register

**Serial Number: 88528436**

**Filing Date: 07/22/2019**

### To the Commissioner for Trademarks:

**MARK:** PET-ZEL BITES (Standard Characters, see [mark](#))

The literal element of the mark consists of PET-ZEL BITES.

The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Three Dog Bakery, LLC, a limited liability company legally organized under the laws of Delaware, having an address of  
1843 N. Topping Avenue  
Kansas City, Missouri 64120  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 031: Animal foodstuffs

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

### The applicant's current Attorney Information:

Matthew P. Frederick and Ryan P. Cox, Reg. No. 71,444; Christopher A. Winter of Reed Smith LLP  
Suite 3100  
1717 Arch Street, Three Logan Square  
Philadelphia, Pennsylvania 19103  
United States  
215-851-8100(phone)  
215-851-1420(fax)  
phlipdocketing@reedsmith.com (authorized)

The attorney docket/reference number is T34049US00.

### The applicant's current Correspondence Information:

Matthew P. Frederick  
Reed Smith LLP  
Suite 3100  
1717 Arch Street, Three Logan Square  
Philadelphia, Pennsylvania 19103  
215-851-8100(phone)  
215-851-1420(fax)  
phlipdocketing@reedsmith.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant, the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Reduced Fee status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

#### Basis:

**If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):**

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

**And/Or**

**If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):**

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

**Declaration Signature**

Signature: /Aziz Giga/ Date: 07/22/2019

Signatory's Name: Aziz Giga

Signatory's Position: Chairman

Payment Sale Number: 88528436

Payment Accounting Date: 07/23/2019

Serial Number: 88528436

Internet Transmission Date: Mon Jul 22 20:57:28 EDT 2019

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# PET-ZEL BITES