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

Proceeding	92077740
Party	Defendant Cooperative Regions of Organic Producer Pools
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Date	09/13/2021
Attachments	RegistrantsAnswer_Proceeding92077740.pdf(87827 bytes )

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

In the Matter of Reg. No.: 5,623,939

For the Mark: GRASSMILK KIDS

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MANA FOODS INTERNATIONAL		)	
LIMITED (DBA GRASS MILK		)	
CREAMERY)		)	
		)	
	Petitioner,	)	
		)	Cancellation No. 92077740
	v.	)	
		)	
COOPERATIVE REGIONS OF		)	
ORGANIC PRODUCER POOLS		)	
		)	
	Registrant.	)	
<hr/>		)	

Trademark Trial and Appeal Board  
United States Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**REGISTRANT’S ANSWER AND AFFIRMATIVE DEFENSES TO PETITION FOR  
CANCELLATION**

Registrant., Inc. (hereinafter “Registrant”), by and through its attorneys Boardman & Clark LLP, hereby replies to the Petition for Cancellation of Petitioner Mana Foods International Limited, DBA Zeal Grass Milk Creamery (hereinafter “Petitioner”) as follows:

Registrant admits that Registrant is a Wisconsin stock cooperative having an address of One Organic Way, La Farge, Wisconsin, United States, 54639 as alleged in the opening paragraph

of the Petition for Cancellation. Registrant denies that Petitioner is and continues to be damaged by Registrant's valid and enforceable Registered Mark. Registrant is without knowledge or information sufficient to form a belief as to the truth of the other allegations set forth in the opening paragraph of the Petition for Cancellation and based thereon, denies each and every other allegation set forth in the opening paragraph of the Petition for Cancellation, putting Petitioner to its proof.

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Petition for Cancellation and based thereon, denies each and every allegation set forth in paragraph 1, putting Petitioner to its proof.

2. Registrant denies each and every allegation set forth in paragraph 2.

3. Registrant admits that it has maintained registration for the GRASSMILK KIDS Mark, Registration No. 5,623,939 in "yogurt" in Class 29. Registrant denies each and every remaining allegation set forth in paragraph 3.

4. Registrant denies each and every allegation set forth in paragraph 4.

5. Registrant denies each and every allegation set forth in paragraph 5.

6. Registrant denies each and every allegation set forth in paragraph 6.

7. Registrant realleges and incorporates by reference the answers contained in paragraphs 1 through 6 as though fully set forth herein.

8. Registrant denies each and every allegation set forth in paragraph 8 of the Petition for Cancellation.

9. Registrant denies that Petitioner has correctly characterized Registrant's requirements. Any suggestion that a farm may simply graze its animals for "only" 150 days is inaccurate and incomplete. Registrant admits that it requires its GRASSMILK producing farms to graze all animals 6 months and older throughout the entire grazing season, and admits that no grazing season may be less than 150 days per calendar year. Registrant admits that it allows for certain stored and dried forages, and for the supplement of molasses in part to provide simple carbs to support milk production.

10. Registrant denies each and every allegation set forth in paragraph 10.

11. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Petition for Cancellation and based thereon, denies each and every allegation set forth in paragraph 11, putting Petitioner to its proof.

12. Registrant denies each and every allegation set forth in paragraph 12 of the Petition for Cancellation.

13. Registrant denies each and every allegation set forth in paragraph 13 of the Petition for Cancellation.

14. Registrant realleges and incorporates by reference the answers contained in paragraphs 1 through 13 as though fully set forth herein.

15. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Petition for Cancellation and

based thereon, denies each and every allegation set forth in paragraph 15, putting Petitioner to its proof.

16. Registrant denies that Petitioner has correctly characterized Registrant's requirements. Any suggestion that a farm may simply graze its animals for "only" 150 days is inaccurate and incomplete. Registrant admits that it requires its GRASSMILK producing farms to graze all animals 6 months and older throughout the entire grazing season, and admits that no grazing season may be less than 150 days per calendar year. Registrant admits that it allows for certain stored and dried forages, and for the supplement of molasses in part to provide simple carbs to support milk production.

17. Registrant denies each and every allegation set forth in paragraph 17 of the Petition for Cancellation.

18. Registrant denies each and every allegation set forth in paragraph 18 of the Petition for Cancellation.

19. Registrant denies each and every allegation set forth in paragraph 19 of the Petition for Cancellation.

20. Registrant denies each and every allegation set forth in paragraph 20 of the Petition for Cancellation.

21. Registrant realleges and incorporates by reference the answers contained in paragraphs 1 through 20 as though fully set forth herein.

22. Registrant denies each and every allegation set forth in paragraph 22 of the Petition for Cancellation.

23. Registrant denies each and every allegation set forth in paragraph 23 of the Petition for Cancellation.

24. Registrant denies each and every allegation set forth in paragraph 24 of the Petition for Cancellation.

25. Registrant denies that Petitioner or others possess any right to use the term “grassmilk,” “grass milk” or other variations and denies each and every allegation set forth in paragraph 25 of the Petition for Cancellation.

26. Registrant denies each and every allegation set forth in paragraph 26 of the Petition for Cancellation.

27. Registrant denies each and every allegation set forth in paragraph 27 of the Petition for Cancellation.

28. Registrant denies each and every allegation set forth in paragraph 28 of the Petition for Cancellation.

29. Registrant realleges and incorporates by reference the answers contained in paragraphs 1 through 28 as though fully set forth herein.

30. Registrant denies each and every allegation set forth in paragraph 30 of the Petition for Cancellation.

31. Registrant denies each and every allegation set forth in paragraph 31 of the Petition for Cancellation.

32. Registrant denies each and every allegation set forth in paragraph 32 of the Petition for Cancellation.

33. Registrant denies each and every allegation set forth in paragraph 33 of the Petition for Cancellation.

34. Registrant denies each and every allegation set forth in paragraph 34 of the Petition for Cancellation.

35. Registrant denies each and every allegation set forth in paragraph 35 of the Petition for Cancellation.

All allegations and matters contained in the Petition for Cancellation which are not herein expressly admitted or expressly denied are specifically denied as though set forth individually and separately denied.

**AFFIRMATIVE DEFENSES**

1. As a first separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation fails to state a claim upon which relief can be granted.

2. As a second separate and affirmative defense, Registrant affirmatively alleges that is the Registrant of prior registrations, bearing the GRASSMILK mark or variations of it, both being currently active and incontestable, namely GRASSMILK, Registration No. 4,630,574, Class 29 (Milk), Registration Date November 4, 2014, and ORGANIC VALLEY GRASSMILK, Registration No. 4,630,575, Class 29 (Organic Milk), Registration Date November 4, 2014. Considering these prior registrations, which Petitioner has not challenged, Petitioner cannot reasonably be harmed by the registration challenged in this Petition for Cancellation.

3. As a third separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation is barred by the doctrine of unclean hands.

4. As a fourth separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation is barred by the doctrine of estoppel.

5. As a fifth separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation is barred by the doctrine of laches.

6. As a sixth separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation is barred by the doctrine of acquiescence.

7. As a seventh separate and affirmative defense, Registrant affirmatively alleges that Petitioner's Petition for Cancellation is barred by the doctrine of waiver.

Registrant reserves the right to assert such other and further defenses, including but not limited to other affirmative defenses, and counterclaims, as Registrant may become aware of during the course of this proceeding.

WHEREFORE, Registrant asks that Petitioner's Petition for Cancellation be denied with prejudice in its entirety, and that Registrant should receive such other and further relief as the Board deems just and proper.

Dated this 13th day of September, 2021.



Respectfully Submitted,

COOPERATIVE REGIONS OF ORGANIC  
PRODUCER POOLS

/chris hussin/

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Christopher J. Hussin  
Attorney for Cooperative Regions of  
Organic Producer Pools

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of this document has been served on Attorney Mary E. Innis, attorney for Petitioner Mana Foods International Limited DBA Zeal Grass Milk Creamery, by forwarding said copy on September 13, 2021, via email, to Attorney Mary E. Innis at [doCKET@innislaw.com](mailto:doCKET@innislaw.com) and to [khalpern@innislaw.com](mailto:khalpern@innislaw.com).

Executed on: September 13, 2021

/chris hussin/  
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Christopher J. Hussin  
Attorney for Cooperative Regions of  
Organic Producer Pools