

ESTTA Tracking number: **ESTTA1334995**
Filing date: **01/19/2024**

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	Global Food Trading Corp.		
Entity	Corporation	Incorporated or registered in	New Jersey
Address	45 CAREY AVENUE SUITE 208 BUTLER, NJ 07405 UNITED STATES		

Attorney information	DAVID H.E. BURSIK, ESQ. 401 HAMBURG TURNPIKE SUITE 201 WAYNE, NJ 07470 UNITED STATES Primary email: davidhebursikesq@gmail.com 973-904-1040		
Docket no.			

Registration subject to cancellation

Registration no.	5662373	Registration date	01/22/2019
Register	Principal		
Registrant	BLUE CIRCLE FOODS LLC 4600 ARGYLE TERRACE NW WASHINGTON, DC 20011 UNITED STATES		

Goods/services subject to cancellation

Class 029. First Use: Nov 23, 2018 First Use In Commerce: Nov 23, 2018 All goods and services in the class are subject to cancellation, namely: Seafood, not live
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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.	98343973	Application date	01/05/2024
Register	Principal		
Registration date	NONE	Foreign priority	NONE

		date	
Word mark	HAPPY FISH		
Design mark			
Description of mark	NONE		
Goods/services	Class 029. First use: First Use: Mar 31, 2014 First Use In Commerce: Mar 31, 2014 Seafood, not live		

Attachments	TTAB Petition For Cancellation Of HAPPY FISH Trademark Registration 5 662373.pdf(88368 bytes)
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Signature	/David H.E. Bursik, Esq./
Name	David H.E. Bursik, Esq.
Date	01/19/2024

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

In the Matter of Cancellation of
Trademark Registration No. 5662373
for the trademark HAPPY FISH
Date Registered: January 22, 2019

GLOBAL FOOD TRADING CORP.,	:	
Petitioner,	:	Cancellation No.
v.	:	
	:	
BLUE CIRCLE FOODS LLC,	:	
Registrant.	:	
	:	

**PETITION TO CANCEL U.S. TRADEMARK REGISTRATION
With Certificate Of Service Appended Hereto**

Petitioner Global Food Trading Corp., with an address of 45 Carey Avenue, Suite 208, Butler, New Jersey 07405 (“Petitioner”), by way of petition for cancellation hereby filed against Blue Circle Foods LLC, 4600 Argyle Terrace NW, Washington, District Of Columbia 20011 (Registrant”), alleges and states:

1. Petitioner, upon information and belief and the records of the United States Trademark Office, believes that Registrant is the owner of the United States Trademark Registration No. 5662373 for the trademark HAPPY FISH.
2. Petitioner is the applicant for registration of the HAPPY FISH trademark pending as United States Trademark Application Serial No. 98343973.

GROUNDS FOR CANCELLATION

(Priority Of Use And Likelihood Of Confusion)

3. Petitioner hereby repeats the preceding allegations of the petition and incorporates the same herein as if set forth at length. Petitioner claims grounds for cancellation of the Registrant's HAPPY FISH trademark registration pursuant to 15 U.S.C. 1064 as set forth herein.

4. Registrant claims a first use date of November 23, 2018 based upon the official United States Trademark Office record and filings for this registration.

5. The HAPPY FISH trademark owned by Petitioner has been in use since March 31, 2014 and has been in continuous use since that date.

6. Petitioner has priority of use of the HAPPY FISH trademark relative to the Registrant's use of the HAPPY FISH trademark.

7. Petitioner's HAPPY FISH trademark is used in conjunction with seafood in International Class 29. Registrant's HAPPY FISH trademark, according to the official United States Trademark Office record and filings for the registration, is used in conjunction with seafood in International Class 29.

8. A U.S. Trademark Examiner issued a Section 2D refusal to register in response to Petitioner's prior application Ser. No. 87642808 to register the Petitioner's HAPPY FISH trademark based on the Examiner's belief that there was a likelihood of confusion between the Petitioner's HAPPY FISH trademark and the Registrant's HAPPY FISH trademark.

9. The Trademark Office refusal to register the Petitioner's HAPPY FISH trademark has damaged and continues to damage the Petitioner's trademark.

10. Petitioner believes that it has been damaged and that it will continue to be damaged by the continuing registration of the Registrant's HAPPY FISH trademark and Petitioner hereby petitions to cancel the Registrant's registration of the HAPPY FISH trademark as to all the goods listed in the registration.

11. Therefore, Registrant's United States Trademark Registration No. 5662373 should be canceled as to all goods listed there in accordance with Trademark Act 15 U.S.C. Sec. 1064.

17. Wherefore, Petitioner requests cancellation of U.S. Trademark Registration No. 5662373.

Dated: January 19, 2024

Respectfully submitted,

/s/David H.E. Bursik, Esq./

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Attorney for Petitioner

CERTIFICATE AND PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition For Cancellation has been served on the following individual by emailing a copy of the Petition For Cancellation as follows:

James R. Davis, Esq.
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700 Thirteen Street N.W. Suite 800
Washington, D.C. 20005-3960
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Tel 1-202-661-5828
Attorney of record for Registrant

/s/ David H.E. Bursik, Esq./

David H.E. Bursik, Esq.
January 19, 2024