

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

ROSINA FOOD PRODUCTS, INC., and F&R IP
INC.,

Plaintiffs,

v.

ROSINA'S MILL STREET LLC dba ROSINA'S
RESTAURANT AND BAR,

Defendant.

Civil Action No. _____

MAY 19, 2022

COMPLAINT

Plaintiffs, Rosina Food Products, Inc. and F&R IP Inc. ("Plaintiffs"), by and through their attorneys, Barclay Damon LLP, as and for their Complaint against defendant Rosina's Mill Street LLC dba Rosina's Restaurant and Bar ("Defendant"), allege as follows:

NATURE OF ACTION

1. This is an action for (a) trademark infringement of federally-registered trademarks in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1); (b) unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (c) cybersquatting in violation of Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d); (d) trademark infringement under the common law of the State of Connecticut; (e) unfair competition under the common law of the State of Connecticut; and (f) unfair competition under the Connecticut Unfair Trade Practices Act ("CUTPA") (Gen. Stat. § 42-110(b)).

PARTIES

2. F&R IP Inc. (hereinafter, "F&R IP"), is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 170 French Rd., Buffalo,

New York 14227. F&R IP is the owner of trademark registrations and common law trademark rights for ROSINA-formative marks identified in detail below (and hereinafter known as the “Rosina Marks”).

3. Rosina Food Products, Inc. (hereinafter “Rosina”), is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 170 French Rd., Buffalo, New York 14227. Rosina is the beneficial owner and licensee of the Rosina Marks owned by F&R IP. Rosina is in the business of manufacturing, distributing, and selling a wide variety of Italian-style food products under various brand names and logos, including the Rosina Marks.

4. Upon information and belief, Defendant is a limited liability company duly organized and existing under the laws of the State of Connecticut, with a place of business at 230 Mill St., Greenwich, Connecticut 06830.

JURISDICTION AND VENUE

5. This Complaint arises under §§ 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a) and (d), as amended, and the common laws of the State of Connecticut.

6. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121(a) (actions arising out of the Lanham Act); 28 U.S.C. § 1331 (actions arising under the laws of the United States), § 1338(b) (action asserting related claim for unfair competition), and § 1367 (supplemental jurisdiction over related claims), and general principles of ancillary and pendent jurisdiction.

7. This Court has personal jurisdiction over Defendant because it is domiciled in this District and has committed acts of trademark infringement and/or unfair competition within this District, and/or it regularly engages in extensive business transactions and solicitations in the State

of Connecticut and within this District and has offered to contract, and/or contracted, to supply goods and/or services within this District, including, but not necessarily limited to, through the operation of its restaurant located at 230 Mill St., Greenwich, Connecticut.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to Plaintiffs' claims against Defendant occurred, and continue to occur, in this District.

FACTUAL ALLEGATIONS

9. Plaintiffs' Rosina brand was launched in 1963 as part of a family business in Buffalo, New York, servicing neighborhood meat markets, supermarkets, and restaurants.

10. Since then, the Rosina brand has become known nationwide as signifying high quality food products that are consistently made with quality and fresh ingredients. The products include Italian meatballs, pasta, eggplant, appetizers, pizza toppings, sausage, and entrees. Products are sold through a variety of channels, and can be found in supermarkets, supercenters, military commissaries, wholesale clubs, and restaurants throughout the country.





11. In 2013, Rosina was selected as “Frozen Food Supplier of the Year” by Reinhart Foodservice, one of the largest foodservice distributors in the United States.

12. F&R IP is the owner of federal trademark registration, Reg. No. 1,584,904, which issued on February 27, 1990 on the principal register of the United States Patent and Trademark Office. This registration is for the *Rosina* mark and covers a range of goods, including, “Italian Foods – namely, Meatballs, Italian Sausage with Peppers and Onions in Sauce, and Beef or Pork Based Pizza Topping.” A true and correct copy of this registration is attached as Exhibit A. The right to use this trademark has become incontestable under the provisions of 15 U.S.C. § 1065. The registration is valid and subsisting and has never been cancelled.

13. F&R IP is also the owner of federal trademark registration, Reg. No. 4,350,542, which issued on June 11, 2013 on the principal register of the United States Patent and Trademark Office. This registration is for the *Rosina* mark and covers a range of goods, including, “Food products, namely, frozen and packaged meats and vegetables; Frozen and packaged entrees consisting primarily of meat and/or vegetables.” A true and correct copy of this registration is attached as Exhibit B. The right to use this trademark has become incontestable under the

provisions of 15 U.S.C. § 1065. The registration is valid and subsisting and has never been cancelled.

14. F&R IP is also the owner of federal trademark registration, Reg. No. 6,123,358, which issued on August 11, 2020 on the principal register of the United States Patent and Trademark Office. This registration is for the ROSINA mark and covers a range of goods, including, “Meatballs; Beef meatballs; Swedish meatballs; Turkey meatballs; Veal meatballs; Chorizo meatballs; Eggplant parmigiana; Potato-based gnocchi; Food products, namely, frozen and packaged meats and vegetables; Frozen prepared meats; Frozen entrees consisting primarily of meat or vegetables; gluten-free meatballs; Food products, namely, beef and pork based pizza toppings in the nature of meatballs, and uncooked sausages.” A true and correct copy of this registration is attached as Exhibit C. The registration is valid and subsisting and has never been cancelled.

15. In addition to being the owner of the active federal trademark registrations identified in Exhibits A through C for the Rosina Marks, F&R IP is also the owner of nationwide common law trademark rights for the Rosina Marks. Rosina is the beneficial owner and licensee of the Rosina Marks.

16. The Rosina Marks have been used in commerce in the United States continuously since their inception, including through advertising, marketing, and distributing goods under the Rosina Marks in print, online, and through other media. In its marketing and advertising, Rosina uses the Rosina Marks to attract and maintain clientele.

17. Rosina has invested substantial time, effort, and financial resources promoting the Rosina Marks in connection with the advertising, marketing, and sale of its goods in commerce. The Rosina Marks have become, through widespread and favorable public acceptance and

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