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

Proceeding	92057664
Party	Plaintiff Tastes Great LLC
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Submission	Motion to Dismiss - Rule 12(b)
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Attachments	2013-10-23 Plaintiffs Response to Motion to Dismiss.pdf(298380 bytes) 2013-10-23 Declaration of Joseph Uradnik Part1.pdf(3962440 bytes) 2013-10-23 Declaration of Joseph Uradnik Part2.pdf(5127355 bytes) 2013-10-23 Declaration of Joseph Uradnik Part3.pdf(2072071 bytes)

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

In re Registration No. 3,484,548	§	
On the Principal Register	§	
Mark: STEVE’S & ED’S	§	
Issued: August 12, 2008	§	Cancellation No. 92057664
	§	
Tastes Great LLC,	§	
	§	PLAINTIFF’S RESPONSE TO
Plaintiff,	§	DEFENDANT’S MOTION TO
	§	DISMISS
v.	§	
	§	
Master Sales & Marketing, LLC,	§	
	§	
Defendant.	§	

PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION TO DISMISS

Plaintiff respectfully requests the US Trademark Trial and Appeal Board (“Board”) deny Defendant’s motion in its entirety. As shown below, the petition sufficiently establishes that Plaintiff has standing, i.e., a real interest in the outcome of this proceeding, since Defendant has asserted the registration at issue against Plaintiff. Statutory grounds for cancellation of Defendant’s registration also exist.

I. History of the Parties’ Current Dispute

On June 25, 2013, Defendant asserted claims of trademark infringement, unfair competition, false designation of origin, and false description claims against Plaintiff. Petition, ¶2; Exh. A.¹ Defendant demanded that Plaintiff “immediately” stop using “STEVE’S” and “any confusingly similar term” for its products. Exh. A, at p. 2.

Defendant asserted, among other things, the existence of actual confusion in the marketplace due to Plaintiff’s actions. Exh. A, at pp. 1-2; Exh. B, at p. 1. Defendant asserted that such actual confusion “substantiated” trademark infringement, unfair competition, false

¹ As used herein, “Petition ¶___” refers to the specific referenced paragraph of Plaintiff’s petition for cancellation in this proceeding, and “Exh. ___” refers to the specific referenced exhibit accompanying this Response.

designation of origin, and false description. Exh. A, at p. 1. Defendants asserted as “fact” that “there has been at least one instance of actual confusion in the marketplace.” Exh. A, at pp. 1-2. Defendants even asserted specific details of the alleged actual confusion:

Specifically, a representative with Wakefern Food Corporation, one of our client’s distributors, has recently contacted Master Sales & Marketing regarding the “STEVE’S PEPPER SAUCE” brand, inquiring as to whether this was a new product line of our client.

Exh. A, at p. 2.

In reality, Defendant’s assertion of actual confusion was false. Exh. C, at p. 1. With apparently only minimal investigative efforts, Defendant belatedly confirmed on or about July 10, 2013, that no actual confusion exists.² Exh. C, at p. 1.

Defendant however continued to press the current dispute. Apparently, on or about July 10, 2013, Defendant developed a scheme of plausible deniability for its falsehoods involving: (i) claiming that an “honest mistake” had been made, (ii) maintaining their assertion of likelihood of confusion, and (iii) claiming “We were misinformed with regard to the brand.” Exh. C, at p. 1.

On July 26, 2013, Plaintiff responded to Defendants June 25, 2013 cease and desist letter through counsel, and requested additional information to support Defendant’s trademark infringement allegations:

If you have any evidence that tends to suggest that there is a likelihood of confusion in this case, that confusion is widespread, and/or that actual confusion has in fact occurred here, please provide specific details for our consideration without delay (preferably set forth in the form of a likelihood of confusion analysis that addresses each of the pertinent factors).

² Presumably, Defendant made its false assertions of actual confusion knowing them to be false, or in complete disregard for the truth of the assertions, recklessly, and willfully. Defendant, on July 9, 2013, learned for the first time that Plaintiff had retained counsel to investigate the trademark dispute. On information and belief, only after learning that fact did Defendant even attempt to determine whether the assertions set forth above were true or not. Plaintiff’s counsel first contacted counsel for Defendant at the close of business on July 9, 2013, at 3:50 PM CDT. Exh. B. Defendant’s counsel admitted the falsehoods in Exh. A the very next day, at 1:12 PM CDT, after only a few working hours had passed. Exh. C.

Exh. D. Plaintiff on July 26, 2013, also provided Defendants an “out” to avoid its unfortunate predicament of having made false statements:

However, we trust that your client by now has reconsidered its position, and that it will agree in writing to drop this matter completely.

Exh. D.

Plaintiff received no response to its request and offer of July 26, 2013. Plaintiff contacted Defendant to confirm their receipt of Plaintiff’s July 26 communication. Exh. E, at p. 2. Defendant promptly responded on July 31, 2013, that Plaintiff’s July 26 communication was received, and that “We will be providing a reply soon.” Exh. E, at p. 1.

During the period July 26-31, 2013, Defendants apparently adopted a stall strategy, in the hope of beginning to turn the current dispute to Defendants’ favor by simply not responding for approximately two weeks. Presumably, Defendants hoped that Plaintiff, with its limited resources and desire to resolve the dispute amicably, simply would wait for a response from Defendant, and thus permit an impending August 12, 2013 deadline to slip past. That is, Defendant apparently refused to respond to Plaintiff’s reasonable request for information in hopes that the 5-year anniversary of the grant of US Trademark Registration No. 3,484,548 would slip by, and the registered mark would become incontestable. See 15 U.S.C. § 1065 (registered trademark that has been in continuous use for five consecutive years subsequent to its registration date and is still in use in commerce shall be incontestable, subject to certain provisions set forth).

Receiving no timely substantive response from Defendants, Plaintiff instituted this cancellation proceeding on August 9, 2013, seeking to cancel US Trademark Registration No. 3,484,548 for the designation STEVE’S & ED’S (the “registration at issue”).

Plaintiff promptly informed Defendant of the filing of the petition for cancellation via US first class mail service on two attorneys for Defendant, Mr. Carl Spagnuolo and Ms. Amy Price. Exh. G, at p. 10. Plaintiff also sent Ms. Price that same day a courtesy email including the petition. Exh. F.

Defendant apparently had not expected the timely filing of the cancellation petition. On information and belief, on or about August 9, Defendant abandoned its failed stall strategy and instead began to act with increased urgency to settle the dispute quickly. On August 13, 2013, Defendant broke its previous silence by offering to enter into a consent and coexistence agreement with Plaintiff. Exh. I, at p. 2.

On August 15, 2013, Defendant learned that a quick resolution of the present dispute had become unlikely. Counsel for Plaintiff informed Defendant's counsel that day that Defendant's August 13 settlement proposal had not been discussed yet with Plaintiff. Exh. J, at pp. 1-2. Further, counsel for Plaintiff advised Defendants to prepare to respond to the recently-filed petition for cancellation by the September 21, 2013 deadline to answer. Exh. J, at pp. 1-2.

The next day, on Friday, August 16, 2013, at the close of business, Mr. Spagnuolo swore to "facts" that upon information and belief Mr. Spagnuolo knew were untrue. Exh. K. Mr. Spagnuolo submitted a Combined Declaration of Use and Incontestability under Sections 8 & 15 to the US Patent and Trademark Office for US Trademark Registration No. 3,484,548 (i.e., the registration at issue here). Exh. K. That Affidavit, in part, provided:

Declaration

*The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; **and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.***

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Carl J. Spagnuolo/ Date: 08/16/2013
Signatory's Name: Carl J. Spagnuolo
Signatory's Position: Attorney of record, Florida bar member

Exh. K, at p. 6 (bold/underline emphasis added).

The above-highlighted portion of the Affidavit signed and submitted on August 16, 2013, by Mr. Spagnuolo, is false in view of the present pending cancellation proceeding filed by Plaintiff on August 9, 2013. Attorney Spagnuolo was served a copy of that petition, which was scheduled to be delivered on August 13, 2013 (Exh. H), and presumably he was informed by Ms. Price of the cancellation petition upon its filing. So, Mr. Spagnuolo undoubtedly knew of the pending cancellation proceeding by the time he signed and submitted the Affidavit on August 16. On information and belief, the Affidavit was submitted in self-interest, for the purpose of plausible deniability.

By September 12, 2013, Plaintiff had discovered and brought the matter of the false Affidavit to the attention of Defendant, strongly suggesting that it be promptly abandoned. Exh. L, at p. 1. However, no effort toward abandonment of the false Affidavit apparently has been made to date. Also, Ms. Price no longer represents Defendant, and she no longer works for Mr. Spagnuolo's firm. Exh. M. Defendant's promised basis for the charge of likelihood of confusion still has not been provided to Plaintiff.

II. The Parties' Dispute Continues, Which Establishes Plaintiff's Standing

Plaintiff is a fledgling small business in northern Minnesota harmed by Defendants' assertion of the registration at issue. Defendant here is attempting through its trademark bullying tactics to enforce alleged trademark rights beyond a reasonable interpretation of the scope of the rights legitimately granted to a trademark owner.

Defendant asserted the registration at issue against Plaintiff on June 25, 2013. Since then, Defendant has refused to resolve the dispute amicably. Even after Defendant admitted that

no actual confusion in fact exists here, Defendant continues to assert a likelihood of confusion, and continues to press alleged Lanham Act violations against Plaintiff. See, e.g., Exh. C.

To the best of Plaintiff's knowledge, neither the Board nor any court has ever dismissed a cancellation or other proceeding for lack of standing when a cancellation petitioner faced charges of trademark infringement involving the registration sought to be canceled. However, that is what Defendant is now asking the Board to do.³ Defendant's motion should be denied.⁴

III. Plaintiff's Real Interest in the Outcome of this Proceeding is Sufficient To Establish Plaintiff's Standing

The statutory basis for a cancellation proceeding is Section 14 of the Trademark Act of 1946, 15 U.S.C. § 1064, which in pertinent part provides:

A petition to cancel a registration of a mark, stating the grounds relied upon, may ... be filed as follows by any person who believes that he is or will be damaged ... by the registration of a mark on the principal register ...

(1) Within five years from the date of the registration of the mark under this Act.

(3) At any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered,

³ The Board may assume in deciding the question before it that Defendant has made a non-frivolous likelihood of confusion claim against Plaintiff. See Exh. A. Such a claim, along with making the registration of record, would establish Plaintiff's standing here. See, e.g., *Barbara's Bakery, Inc. v. Barbara Landesman*, Opposition No. 91157982, (TTAB 2007) ("We find that opposer has established its standing to oppose registration of applicant's mark. In particular, opposer has properly made its pleaded registration of record, and opposer's likelihood of confusion claim is not frivolous.") (citing *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000) and *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982)) and *Young v. AGB Corp.*, 47 USPQ2d 1752, 1755 (Fed. Cir. 1998) ("no basis" for construing standing requirements inconsistently in opposition and cancellation proceedings).

⁴ Defendant now argues that there is no standing here. In view of the Board's prior decisions on standing, logic suggests that Defendant must now believe its earlier claim of trademark infringement is frivolous (although Defendant likely will refuse to admit as much). Thus, one of Defendant's present motion and Defendant's continuing likelihood of confusion allegation against Plaintiff now must be frivolous. If the former, the Board is respectfully requested to cancel the registration at issue as an appropriate sanction for Defendant's conduct.

or is functional, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of section 4 [15 U.S.C. § 1054] or of subsection (a), (b), or (c) of section 2 [15 U.S.C. § 1052] for a registration under this Act, or contrary to similar prohibitory provisions of such prior Acts for a registration under such Acts, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used. If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed.

15 U.S.C. § 1064. Thus, a petition to cancel may be brought by any person who believes she is or will be damaged by the registration of a mark. Defendant meets that test. See, e.g., Petition ¶1-¶4 (registration asserted against Plaintiff); ¶32 (Plaintiff's rights impaired by continuing registration); ¶34-¶36 (registration impinges upon Plaintiff's right to use name in business); ¶34-¶35 and ¶37-¶40 (Plaintiff's right to create and strengthen public association with Steve Olds impaired); ¶34-¶35, ¶37-¶39 and ¶41 (Plaintiff damaged by chilling effect of the registration at issue on Plaintiff's speech); and ¶34-¶35, ¶37-¶39, and ¶42 (Plaintiff damaged by registration at issue inasmuch as Plaintiff denied opportunity to establish, maintain, and/or expand worth, standing, fame, publicity, and respect for Plaintiff's voice); see also, Petition ¶34 (public interest implicated here too).⁵

To meet the standing requirement, Plaintiff need only show that it has a real interest in the outcome of the proceeding. *DaimlerChrysler Corp. et al. v. American Motors Corp.*, Cancellation No. 92045099 (TTAB 2010). Proof of standing in a TTAB cancellation is a low threshold. *Syngenta Crop Protection, Inc. v. Bio-Chek, LLC*, Opposition No. 91175091 n.8 (TTAB 2009). Also, standing is liberally construed. *Duramax Marine, LLC v. R.W. Fernstrum & Company*, Opposition No. 91119899, (TTAB 2005) (citing *Cunningham v. Laser Golf Corp.*, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000)).

⁵ *Loglan Inst. v. Logical Language Group*, 22 USPQ2d 1531, 1534 (Fed. Cir. 1992) (noting "the public interest in a cancellation proceeding to rid the register of a generic mark").

Plaintiff has standing to cancel the registration at issue at least by virtue of the fact that plaintiff has asserted the registration at issue against defendant. *Liberty Trouser Co. v. Liberty & Co.*, 222 USPQ 357, 358 (TTAB 1983) (allegation of likelihood of confusion accepted as proper allegation of petitioner's standing with respect to pleaded grounds of fraud and abandonment); see also *Anthony's Pizza & Pasta International, Inc. v. Anthony's Pizza Holding Company, Inc.*, Opposition No. 91171509 and Cancellation No. 92045956 (TTAB 2009) (citing *Aries Systems Corp. v. World Book Inc.*, 26 USPQ2d 1926, 1930 n.12 (TTAB 1993)). Paragraph 2 of the petition for cancellation states as much:

2. On June 25, 2013, Registrant (acting through its attorneys) issued a demand letter to Tastes Great LLC alleging, among other things, trademark infringement with respect to US Trademark Registration No. 3,484,548 (i.e., the registration at issue).

Petition ¶2. A copy of Registrant's demand letter is attached hereto as Exhibit A.

Registrant's claim against Petitioner of trademark infringement for the registration at issue here is sufficient basis for standing. Faced with the charge of trademark infringement for the registration at issue, Petitioner most certainly has a real interest in the matter, and should not be treated as a mere intermeddler. See *Syngenta Crop Protection, Inc. v. Bio-Chek, LLC*, Opposition No. 91175091 (TTAB 2009) ("Proof of standing in a Board opposition is a low threshold, intended only to ensure that the plaintiff has a real interest in the matter, and is not a mere intermeddler.") (citing *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025-26 (Fed. Cir. 1999)).

Because Plaintiff has a direct and personal stake in the outcome of this proceeding, Defendant's motion to dismiss based upon lack of standing should be denied.

III. Standing and Grounds for Cancellation are Distinct Inquiries

Standing and grounds for cancellation are distinct inquiries. *Coach Services v. Triumph Learning*, 96 USPQ2d 1600, 1605 (TTAB 2010) (citing *Jewelers Vigilance v. Ullenberg Corp.*, 2 USPQ2d 2021, 2024 (Fed. Cir. 1987)). Defendant’s motion completely misses that point.

Defendant incorrectly argues that Plaintiff must establish standing for each alleged ground for cancellation. See, e.g., Defendant’s brief at p. 3 (“Petitioner has failed to plead facts sufficient to establish standing with regard to its grounds that the mark . . . is merely descriptive or generic of Registrant’s goods.”) and at p. 4 (“With regard to Petitioner’s allegations under Section 2(c) of the Trademark Act, Petitioner lacks standing to cancel Registrant’s mark on this ground because it is not in privity with . . . the individuals named in the mark.”). In a precedential opinion in *Coach Services*, the Board rejected the very approach to the standing inquiry that Defendant urges the Board to adopt. *Coach Services*, 96 USPQ2d at 1604-05. The Board found that “standing and grounds may be related, but they are distinct inquiries.” *Coach Services* 96 USPQ2d at 1605.

In *Coach Services*, the Board specifically rejected the argument Defendant now makes. *Coach Services* held that where standing is otherwise established, an opposer may object to the registration of a mark as being merely descriptive “even if opposer does not claim the right to use the mark descriptively.” *Id.* Defendant’s argument here – that Plaintiff must have a present or prospective right to use the mark at issue descriptively in its business to show a real interest in the proceeding – similarly should be rejected by the Board.

There is no question that Plaintiff has established a real interest in the cancellation of the registration at issue. Defendant, among other things, alleges likelihood of confusion and has charged Plaintiff with trademark infringement based upon the registration at issue here. Defendant’s motion to dismiss based upon lack of standing should be dismissed.

IV. Plaintiff's Petition States Claims Upon Which Relief May Be Granted

Since Plaintiff has established standing here, Plaintiff is entitled to rely on any of the grounds set forth in the Lanham Act that negate Defendant's registration. *Jewelers Vigilance v. Ullenberg Corp.*, 823 F.2d 4990, 2 USPQ2d 2021, 2023 (Fed. Cir. 1987); *Coach Services*, 96 USPQ2d at 1605 (quoting *Jewelers Vigilance*, 2 USPQ2d at 2023, and citing *Young v. AGB Corp.*, 152 F.3d 1377, 47 USPQ2d 1752, 1755 (Fed. Cir. 1998) and *Lipton Industries*, 213 USPQ at 190).

Defendant admits that Plaintiff has raised valid statutory grounds for cancellation. See Defendant's Motion at p. 2. Defendant notes in its brief that Plaintiff has alleged, among other things, three grounds for cancellation: (i) Trademark Act Section 23, 15 U.S.C. § 1064(3) (genericness); (ii) Trademark Act Section 2(e)(1), 15 U.S.C. § 1052(e)(1) (mark is merely descriptive); and Trademark Act Section 2(c), 15 U.S.C. § 1052(c) (no written consent to registration). As shown below, Defendant's motion to dismiss should be denied to the extent based on alleged insufficiencies of Plaintiff's grounds for cancellation.

A. Genericness is a Basis for Cancellation of Defendant's Registration

The Lanham Act provides for the cancellation of a mark that is or has become the generic name for goods or services. 15 U.S.C. § 1064(3). "While a trademark registration has a presumption of validity, in a cancellation proceeding that presumption may be rebutted by evidence from the party seeking cancellation." *Loglan Inst.*, 22 USPQ2d at 1533 (citing *Dan Robbins & Assoc. v. Questar*, 599 F.2d 1009, 1014, 202 USPQ 100, 105 (CCPA 1979)). "The public's perception is the primary consideration in a determination of genericness." *Loglan Inst.*, 22 USPQ2d at 1533 (citing *In re Merrill Lynch*, 828 F.2d 1567, 1569-70, 4 USPQ2d 1141, 1142 (Fed. Cir. 1987); *H. Marvin Ginn Corp. v. Int'l. Ass'n of Fire Chiefs, Inc.*, 782 F.2d 987, 991, 228 USPQ 528, 530 (Fed. Cir. 1986)). The "relevant public" encompasses both "actual [and]

potential purchasers of . . . goods or services." *Magic Wand v. RDB*, 940 F.2d 638, 641, 19 USPQ2d 1551, 1553 (Fed. Cir. 1991).

The proper question at trial is whether the relevant public understands the designation at issue as a name for a genus of goods. If it is found that the designation at issue is the name for a genus of goods that the relevant public understands as including the goods at issue, then the designation at issue is generic.

Here, the designation at issue (i.e., STEVE’S & ED’S) is more analogous to a compound word than to a phrase.⁶ Even Defendant admits the designation at issue is a composite. Defendant’s brief, at p. 3 and at p. 6 n.3. Accordingly, the Board here applies the test of *In re Gould Paper Corp.*, 5 USPQ2d 1110 (Fed Cir. 1987). Under *Gould*, dictionary definitions of the constituent words may suffice to show genericness of the compound term, provided that the joining of the two words lends no additional meaning to the term. *Gould*, 5 USPQ2d at 1111-12.

Here, the pertinent genus is a product or service endorsed or approved by an individual named Steve (“STEVE’S”) and by an individual named Ed (“ED’S”). Combining those two terms (STEVE’S & ED’S) using an ampersand (“&”) imparts no additional meaning here. Plaintiff has pled as much. See Petition, ¶3-¶9 and ¶12-¶23.

1. “Steve” is an Extremely Common First Name (and so is “Ed”)

Defendant manufactured this trademark dispute merely based on Plaintiff’s use of Steve Olds’ first name to sell a pepper sauce that Steve Olds created. Neither Plaintiff nor Steve Olds is famous; however, by allowing Plaintiff to register and use his name with Plaintiff’s pepper sauces, Mr. Olds’ reputation and fame, as well as Plaintiff’s reputation and fame, are growing.

⁶ In determining the genericness of a phrase, “[t]he Board cannot simply cite definitions and generic uses of the constituent terms of a mark . . . in lieu of conducting an inquiry into the meaning of the disputed phrase as a whole to hold a mark . . . generic.” *In re American Fertility Society*, 51 USPQ2d 1832, 1836 (Fed. Cir. 1999). However, even if the Board would find STEVE’S & ED’S more akin to a phrase instead of a compound word, the designation as a whole has no meaning beyond the sum of the meanings of its terms, so no different result would be obtained.

Petition ¶¶37-42. As a result, both Plaintiff and Mr. Olds are lawfully establishing worth, fame, and names for themselves. Petition ¶42.

Defendant does not possess exclusive rights in the word “STEVE’S” for uses related to the products involved here any more so than Steve Olds or any other individual named “Steve.” Petition ¶26. The laws of the United States do not forbid Plaintiff’s actions here. The relevant consuming public understands that the right to use one’s name in a personal business is sacrosanct under the United States Constitution. Petition ¶¶30-31 and ¶¶36-37.

Defendant is a trademark bully. On information and belief, Defendants wrongfully pressed a bogus claim of trademark infringement against Plaintiff when Defendant knew, or reasonably should have known: that Defendant Master Sales had suffered no harm as a result of Plaintiff’s actions; that it was unlikely that Defendant Master Sales would, with any degree of immediacy, suffer any harm due to Plaintiff’s actions; that Defendant Master Sales had no legitimate claim to exclusive use of the name “Steve” or its variants related to the products involved here; and that Defendant Master Sales would need to stretch its trademark rights beyond a reasonable interpretation of the scope of rights granted to a trademark owner to achieve the selfish result of causing Plaintiff to alter Plaintiff’s trademark use and related business practices.

That the relevant public would recognize each of the terms “Steve” and “Ed” as a male given name is beyond dispute. The term “Steve” is “a male given name, form of Steven or Stephen.” Exh. N.⁷ Further, the term “ ’s ” is “an ending used in writing to represent the possessive morpheme after most singular nouns, some plural nouns, especially those not ending in a letter or combination of letters representing an *s* or *z* sound, noun phrases, and noun substitutes.” Exh. O.

⁷ To the extent that any Exhibits here are outside Plaintiff’s petition, the Board is respectfully requested to consider them to support a determination that Plaintiff’s complaint is well-pled. Board proceedings are conducted in accordance with Federal Rule of Evidence (FRE) 201(b). FRE 201(b) permits judges to take judicial notice of two categories of facts:

2. Third Party Use of “STEVE’S” is Extensive

Many businesses other than Defendant Master Sales use the word “STEVE” in various forms, including in its possessive form “Steve’s.” Petition ¶¶15-18. Many companies and entities use the name “Steve’s” in business. Petition ¶¶15-18. These companies and entities include but are not limited to those associated with the following federal registrations and marks: 1,158,271 (STEVE’S ICE CREAM); 1,158,272 (STEVE’S ICE CREAM); 1,158,273 (STEVE’S); 1,287,136 (UNCLE STEVE’S); 1,363,738 (STEVE’S DETAILING); 1,423,280 (STEVE’S DETAILING); 1,432,651 (STEVE’S CAR CARE PRODUCTS); 1,488,848 (STEVE’S); 1,514,027 (STEVE’S); 1,514,028 (STEVE’S); 1,621,525 (STEVE’S SHO-PAC); 1,631,799 (STEVE’S MOM INC.); 2,043,023 (STEVE’S PLACE); 2,259,097 (STEVE’S OINK-N-SQUEEL); 2,380,646 (STEVE’S SUPER SHINE MOBILE DETAILING); 2,389,966 (STEVE’S CHEESE); 2,437,060 (STEVE’S REAL FOOD); 2,527,660 (STEVE’S PRINCE OF STEAKS); 2,599,555 (“STEVE’S” STEVIA); 2,602,435 (CAPTAIN STEVE’S); 2,935,002 (STEVE’S SMOOTH FRENCH); 3,061,129 (STEVE’S SWEET CHILI SEASONING); 3,150,627 (STEVE’S CREATIONS-FROM SOIL TO SKILLET); 3,190,647 (STEVE’S WOOD FIRED PIZZA); 3,238,999 (STEVE’S PRINCE OF STEAKS); 3,239,000 (STEVE’S STEAKS); 3,279,021 (SODA STEVE’S); 3,279,192 (SODA STEVE’S “ADVENTURES IN GOOD EATS”); 3,318,227 (STEVE’S SNAPPIN DOGS); 3,345,351 (STEVE’S PIZZA SP STEVE’S PIZZA EST. 1978); 3,368,977 (76FRED & 99STEVE’S STEAKHOUSE); 3,377,427 (STEVE’S

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- (1) facts "generally known within the territorial jurisdiction of the trial court"; and
 - (2) facts "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

The Federal Rules of Evidence notes that judicial notice may be *permissive* or *mandatory*. If it is permissive, then the court may choose to take judicial notice of the fact proffered, or may reject the request and require the party to introduce evidence in support of the point. If it is mandatory, then the court must take judicial notice of the fact proffered. Here, Plaintiff contends that any required judicial notice of pertinent facts is at least permissive, and that such facts are capable of accurate and ready determination by the Board (e.g., from easily accessible and readily available public records) from sources whose accuracy cannot genuinely be questioned.

BAR ROOM); 3,476,226 (STEVE'S FAMOUS DINER); 3,479,743 (STEVE'S SNAPPIN' DOGS); 3,485,443 (DR. STEVE'S); 3,623,569 (STUBBY STEVE'S TRICKED AGAIN...THE BIG MAN'S BAIT); 3,728,001 (BOBBY & STEVE'S AUTO WORLD); 3,852,039 (DR. STEVE'S); 4,012,809 (MAX & STEVE'S); 4,084,176 (STEVE'S); 4,235,629 (STEVE'S FROZEN CHILLERS); 4,280,339 (STEVE'S FRENCH FRY FONDUE); 4,337,682 (PAPA STEVE'S NO JUNK PROTEIN BARS); and 4,372,734 (STEVE'S ICE CREAM). See Exh. P.

The name "Steve" is an extraordinarily common name in the United States and around the world. "Steve" also is a commonly used variant of "Steven" and "Stephen." According to the Social Security Administration, "Steve" ranked 762 in popularity as a male birth name in 2012; "Steven" ranked 112 in 2012; and during the period 1941-2007, the name "Steven" ranked each year in the top 100 most popular male birth names. Baby Names, Social Security Website at <http://www.ssa.gov/oact/babynames/#ht=2> (*last visited September 21, 2013*) (Rank 1 is the most popular, rank 2 is the next most popular, and so forth; name data are from Social Security card applications for births that occurred in the United States). The spelling "Steven" reached its peak of popularity in the United States in the period 1955–1961, when it was the 10th most popular name for newborn boys. *Id.*

The name "Steve" is not a word created or invented by Defendants. The word "Steve" appears in print and online dictionaries. It is defined as a male given name and form of Steven or Stephen. See, e.g., Exh. N. Based upon a search on Google.com, as of October 21, 2013, there were over 637 million results for the term "steve," the first "hit" being a Wikipedia entry for Steve Jobs. Exh. Q.

It also is undisputable that the relevant public now would understand the terms "Steve" and "Ed" to name persons involved in Defendant's business. Petition ¶¶5-9 and ¶¶12-16.

Defendant's website advertises as much. Petition ¶5; Exh. Q.⁸ Further, the practice of using one's name in a personal business is quite common. Petition ¶¶15-18.

Defendant here has done no more than combine terms that are individually generic in relation to its goods. Thus, the composite is likewise generic. See *Gould*, 5 USPQ2d at 1111 (attempt to appropriate an ordinary compound of two individually generic terms rejected).⁹ Defendant's motion to dismiss should be denied.

B. Descriptiveness is a Basis for Cancellation Here

In the event that the Board should find that the designation STEVE'S & ED'S is not generic, the registration at issue should be canceled based upon the ground of mere descriptiveness.

Descriptiveness as a basis for cancellation has been sufficiently pled. See Petition ¶¶4-9; ¶¶12-21; ¶23; and ¶¶26-29. A term is deemed to be merely descriptive of goods or services, within the meaning of Trademark Act Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. See, e.g., *Callaway Vineyard & Winery v. Endsley Capital Group*, 63 USPQ2d 1919, 1921 (TTAB 2002); *In re Tower Tech*, 64 USPQ2d 1314, 1316 (TTAB 2002). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services

⁸ The term "Ed's" is a possessive variant of "Edward" and "Edgar." Evidence exists related to the name "Ed" similar to that presented for the name "Steve." See, e.g., Exh. R. Additional evidence beyond that presented here could be provided for both names in the unlikely event that a genuine dispute exists over the meaning of those terms (whether considered separately or together, whether in possessive form or not).

⁹ Again, even if STEVE'S & ED'S is treated as a phrase instead of as a compound word, the result would be no different. STEVE'S & ED'S as a phrase is "merely a combination of generic terms that has no separate or distinct commercial impression apart from what one who understands the individual meanings of the terms would expect the terms to signify." *In re Welding, Cutting, Tools & Accessories, LLC*, Serial No. 78212695 (April 20, 2006) (non-precedential) (affirming a genericness refusal of the phrase WELDING, CUTTING, TOOLS & ACCESSORIES for "Retail stores, on-line retail stores and mail order catalog services in the field of welding equipment.").

in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or services. *Callaway Vineyard & Winery*, 63 USPQ2d at 1922; *Tower Tech*, 64 USPQ2d at 1316-17. Moreover, whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use. *Tower Tech*, 64 USPQ2d at 1316. “[T]he question is whether someone who knows what the goods . . . are will understand the mark to convey information about them.” *Id.* at 1316-17.

Here, the arguments raised above for genericness provide a sufficient basis in the alternative to support a finding that STEVE’S & ED’S is merely descriptive. Defendant’s website advertises that Steve and Ed are “a father and son team.” Exh. T. The relevant public would understand that the names are used descriptively by businesses, including by Defendant, to name persons involved in such businesses. Petition ¶15; Exh. S; Exh. T. Moreover, the names are so common that the relevant public understands that mere use of the names – whether separately or together, whether in possessive form or not – does not pinpoint a single source for all the goods and services that are described using such names. Petition ¶16.

The names at issue here do not serve to identify the source of goods at issue, but rather to indicate the names of individuals approving or endorsing the goods, or individuals somehow associated with the source of the goods (as opposed to the source itself). In that way, the names have no trademark significance and are incapable of functioning as a mark. See, e.g., *In re Patent & Trademark Services, Inc.*, Serial No. 75/009,424, (TTAB 1998) (term "Inc." in applicant's mark does not serve to identify the source of applicant's services but rather merely indicates the type of entity which performs the services, and thus has no service mark significance.). Accordingly, Defendant’s motion to dismiss should be denied.

**C. Lack of Written Consent to Registration
Results in Cancellation of Defendant’s Registration**

Related to 15 U.S.C. § 1052(c), Defendant again confuses the separate inquires of standing and grounds for cancellation. Defendant’s motion should be denied in its entirety.

15 U.S.C. §1052(c), in pertinent part, provides:

No trademark ... shall be refused registration on the principal register on account of its nature unless it ... Consists of or comprises a name ... identifying a particular living individual except by his written consent ...”.

Thus, if a registered mark includes or comprises the name of a particular living individual, then under § 1052(c) that individual’s written consent to registration of that mark must have been submitted and made of record in the proceedings leading to that registration. See, e.g., *In re O’Neill Beverage Co., Ltd.*, TTAB (August 15, 2013) (non-precedential) (refusal to register for failure to comply with Trademark Act 2(c) affirmed); see also T.M.E.P. § 813.01(a) (“If a mark comprises the name or likeness of a living individual and consent to register is of record, a statement to that effect must be printed in the *Official Gazette* and on the registration certificate.”) (underline emphasis added). The failure to submit such written consent to registration prior to issue of a registration means that such registration is void.¹⁰ *Reed v. Bakers Engineering & Equipment Co.*, 100 USPQ 196, 199 (PO Ex. Ch. 1954) (“The statute requires the written consent of a particular individual in certain cases and *if this written consent does not exist in those cases in which it is required there can not be any registration.*”) (emphasis added); *O’Neill Beverage*, TTAB (August 15, 2013) (non-precedential) (“Section 2(c) is an *absolute statutory bar* to registration where the mark comprises the name of a particular living individual without that individual’s written consent.”) (emphasis added).

To identify a particular living individual, a name does not have to be the person's full name. See, e.g., *Ross v. Analytical Technology Inc.*, 51 USPQ2d 1269 (TTAB 1999) (registration

¹⁰ No written consent to registration was submitted by either Steve Shtafman or Ed Shtafman prior to August 12, 2008 (i.e., the issue date of the registration at issue). See, e.g., Exh. U. Thus, the registration is void.

of opposer's surname without consent prohibited by § 1052(c)). "Name" in § 1052(c) is not restricted to the full name of an individual but refers to any name regardless of whether it is a full name, or a surname or given name, or even a nickname. The only requirement is that the name identify a particular living individual (as opposed to, for example, a group or class of living individuals (like "attorneys" or "children") or a mere title (like "princess" or "duke")). *Reed*, 100 USPQ at 199; *Giuliano Ceccato v. Manifattura Lane Gaetano Marzotto & Figli, S.p.A.*, 32 USPQ2d 1192, 1196 (TTAB 1994) (designation at issue is a title per se without the addition of a given name or surname (i.e., "DUKE linked with a geographical designation") and does not identify a particular living individual). Moreover, the fact that a name appearing in a mark may be the name of more than one person does not negate the requirement for a written consent to registration if the mark identifies to the relevant public a particular living individual who is publicly connected with the business in which the mark is used. See, e.g., *In re Steak & Ale Restaurants of America*, 185 USPQ 447, 448 (TTAB 1975) ("Even accepting the existence of more than one living 'PRINCE CHARLES', it does not follow that each is not a particular living individual.").

Defendant cannot genuinely dispute that the following seven points are true:

- #1: The name "Steve" in the mark of the registration at issue identifies Steve Shtafman, who was a living individual on August 12, 2008 (i.e., the registration date of the registration at issue), and who is alive today. See Petition ¶6.
- #2: The name "Ed" in the registration at issue identifies Ed Shtafman, who was a living individual on August 12, 2008. See Petition ¶¶7-8.
- #3: For the registration at issue, USPTO records do not include written consent to registration by either Steve Sthafman or Ed Sthafman. See Petition ¶¶10-11.
- #4: Defendant's website, <<stevesandeds.com>>, advertises that Ed and Steve are "a father and son team." See Petition ¶5.
- #5: The names "Steve" and "Ed" are extremely common first names used in various forms by individuals throughout the US. See Petition ¶12.

#6: Extremely common names, like “Steve” and “Ed,” are so common that consumers do not assume that two products bearing the same extremely common name have the same source or will not be confused. See Petition ¶13.

#7: Names, like “Steve” and “Ed,” in possessive form very commonly serve as mere endorsements or approval statements, and as such the names lack trademark significance and are incapable of functioning as a trademark. See Petition ¶¶12-25.

Under the circumstances, no more is needed for the Board to cancel the registration at issue.¹¹

V. Defendant’s “Privity” Argument Misses the Mark

Cancellation of a registration based on a failure to comply with registrability requirements is not only appropriate, but it is required. Here, Defendant’s registration fails to meet the condition for registrability set forth in 15 U.S.C. § 1052(c), so the registration at issue should be cancelled.

Defendant argues that 15 U.S.C. §1052(c) requires “privity” between Plaintiff and the particular living individuals identified in the trademark at issue, and that an absence of such privity makes Plaintiff an improper party to seek cancellation. Defendant’s argument is meritless.

Viewed from the perspective of a standing inquiry, Defendant again improperly suggests that standing must be established for each and every alleged ground for cancellation. As explained above, Plaintiff’s standing exists here. Plaintiff has a real interest in the outcome of the proceeding at least due to Defendant charging Plaintiff with trademark infringement. Once standing is established, Plaintiff may raise any ground for cancellation.

¹¹ Defendant attempts to bolster its position by suggesting a theoretical “doomsday scenario” under which “thousands, if not hundreds of thousands of trademark registrations containing personal first names would be subject to cancellation.” Defendant’s Motion at p. 6. Such attorney argument is mere speculation and of no value. Defendant’s completely ignores pertinent factors in the analysis under §2(c) (e.g., whether a Registrant is in fact advertising a particular living individual’s endorsement or approval of a product; whether the particular living individual is publicly associated with the Registrant, business, or industry; whether the particular living individual personally signed and submitted the application to register, so that written consent to register may be inferred; whether a first name is extremely common and widely used; whether a first name is quite unique and not widely used; etc.).

Viewed from the perspective of a grounds for cancellation inquiry, Defendant’s privity argument runs counter to the express terms of the Lanham Act. 15 U.S.C. § 1064 specifically provides that:

A petition to cancel a registration of a mark, stating the grounds relied upon, may ... be filed as follows by *any person* who believes that he is or will be damaged ... by the registration of a mark on the principal register
...

(emphasis added). There simply is no requirement in the Lanham Act that “privity” must exist between a petitioner and the individuals identified in a mark for the petitioner to be a “proper party” to seek cancellation of the mark. As used in 15 U.S.C. § 1064, the term “any person” does not mean – and the Lanham Act does not anywhere state – that “however, only for cases involving 15 U.S.C. §1052(c) as grounds for cancellation, only those persons in privity with an individual identified in a mark may file a petition to cancel.” Without exception, “any person” means just that: *any person*. Defendant’s motion should be denied in its entirety.

VI. Defendant Relies on Inapposite Caselaw

Each of the cases Defendant relies upon to support the existence of a privity requirement for 15 U.S.C. §1052(c) is distinguishable from the circumstances here, or simply does not apply.

Defendant relies on *Giuliano Ceccato* to argue that Plaintiff lacks standing due to a lack of privity with the individuals named in the designation at issue. However, *Giuliano Ceccato* is not a standing case.

In *Giuliano Ceccato*, a trademark applicant in an opposition had brought a counterclaim petition to cancel a registered mark. The Board specifically noted: “Applicant’s standing arises from its position as defendant in the opposition.” *Giuliano Ceccato*, 32 USPQ2d at 1195 n.7 (citing *General Mills v. Nature’s Way Products*, 202 USPQ 840 (TTAB 1979)). Further, the failure with respect to the Section 2(c) ground for cancellation in *Giuliano Ceccato* was the applicant’s failure to establish an express statutory requirement, i.e., a failure “to establish that

opposer's mark consists of or comprises the name of a particular living individual.”¹² *Giuliano Ceccato*, 32 USPQ2d at 1196; see 15 U.S.C. § 1052(c). The Board's decision turned on questions wholly unrelated to whether privity was shown or even required. Defendant relies on the Board's discussion of privity as an element of a Section 2(c) ground for cancellation, but that commentary is dicta and neither controlling nor persuasive here.

Giuliano Ceccato refers to two other cases that Defendant also relies upon: *Capetola v. Orlando*, 426 F. Supp. 616, 194 USPQ 319 (E.D.Pa. 1977), and *Gilbert/Robinson v. Carrie Beverage-Missouri*, 989 F.2d 985, 26 USPQ2d 1378 (8th Cir. 1993). Both cases are inapposite here.

Gilbert/Robinson involved a § 1120 plaintiff,¹³ and whether plaintiff's injury was within the zone of interests that § 1120 was intended to protect. The court discussed § 1052(c) in dicta, citing *Capetola* and *Jones & Laughlin Steel v. Jones Engineering Co.*, 292 F.2d 294, 130 USPQ 99 (C.C.P.A. 1961). *Gilbert/Robinson*, 26 USPQ2d at 1381. The court noted that the alleged § 1052(c) rights had “long expired” with the death of the third party identified in the designation at issue, and that therefore “§ 1052(c) was no longer an issue.” *Gilbert/Robinson*, 26 USPQ2d at 1381-83. The court found no cognizable injury proximately caused by the alleged fraud, and reversed the lower court's damages award. *Id.* at 1379.

Capetola (discussed in *Giuliano Ceccato* and *Gilbert/Robinson*) and *Jones & Laughlin Steel* (discussed in *Gilbert/Robinson*) also are neither controlling nor persuasive. In *Capetola*, the parties had ignored that § 1052(c) requires written consent to registration, and not written consent to use. In *Capetola*, only written consent to use was at issue. In that context – involving only consent to use – the court found standing clearly lacking: “the very fact that [the individual

¹² The designation at issue in *Giuliano Ceccato* was a title, not a name: “In the present situation, obviously, the term at issue is the title per se (DUKE linked with a geographical designation), without the addition of a given name or a surname.” *Giuliano Ceccato*, 32 USPQ2d at 1196.

¹³ “A § 1120 plaintiff may recover ‘damages sustained in consequence of’ a registration procured by a fraudulent declaration.” *Gilbert/Robinson*, 26 USPQ2d at 1381.

whose written consent to use was allegedly absent] had joined as a plaintiff in this lawsuit certainly negates any inference that she has not in fact consented to use of the mark.” *Capetola*, 426 F. Supp. at 617, 194 USPQ at 320 (emphasis added).

Jones & Laughlin Steel did not involve § 1052(c) at all. The only issue there was likelihood of confusion, and the court properly rejected an argument that a third party not involved in the case possessed superior rights to applicant’s mark at issue: “We fail to see how the rights of a stranger to this proceeding has any bearing on the issue of likelihood of confusion.” *Jones & Laughlin Steel*, 130 USPQ at 100. In dicta, the court added: “Moreover, opposer has no standing to assert damage to itself because of third party rights.” *Id.* This single sentence, which constitutes no more than perhaps an inartfully worded side remark to a likelihood of confusion analysis, is not pertinent to the § 1052(c) issue here, and is neither controlling nor persuasive.

Defendant has not cited a single decision of this Board, or of any court, that supports reading a “privity requirement” into § 1052(c). Privity is not an element of a § 1052(c) ground for cancellation. Defendant’s motion should be denied.

VII. Public Policy Supports Cancellation Here

First and foremost, § 1052(c) sets forth a statutory condition for registrability. A registration that fails to meet even a single statutory condition for registrability is void *ab initio*.

Cancellation of Defendant’s registration is an appropriate result. Cancellation of a federal registration does not impact any of Defendant’s common law rights, and Defendant always may file a further application seeking a federal registration at some future date.

Some case commentary reflects the notion that § 1052(c) is “intended to protect rights of privacy and proprietorship, not of all persons who bear a particular name, but of those who ‘will be associated with the mark as used on the goods, either because that person is so well known that the public would reasonably assume the connection or because the individual is publicly connected with the business in which the mark is used.’” *Gilbert/Robinson*, 989 F.2d at 989, 26

USPQ2d at 1380 (*quoting Martin v. Carter Hawley Hale Stores, Inc.*, 206 USPQ 931, 933 (TTAB 1979)). If accurate, then any pertinent analysis for § 1052(c) should focus primarily on the relationship between (i) the particular living individual identified by a designation at issue, and (ii) the designation, its owner, and the owner's business.

Here, the name "STEVE" in the designation at issue unquestionably refers to Steve Sthafman. Further, Defendant unquestionably publicly connects Mr. Sthafman with defendant's business through nationwide internet advertising. Under the circumstances, Mr. Sthafman's privacy rights are protected only by imposing on Defendant the requirement to obtain written consent to registration of the designation that identifies Mr. Shaftman. That requirement is not optional.¹⁴ Thus, the oft-cited policy of protecting privacy and proprietorship rights will be advanced here only by finding the registration at issue void *ab initio*.

Moreover, 15 U.S.C. § 1064 expressly permits Plaintiff to raise Defendant's failure to comply with 1052(c) as a ground for cancellation. Plaintiff thus advances, among other things, the important public interest in purging the principal register of improper registrations. *Loglan Inst.*, 22 USPQ2d at 1534 (noting "the public interest in a cancellation proceeding to rid the register of a generic mark").

VIII. Leave to Amend is Appropriate, if Necessary

In the event the Board finds technical or other defects in Plaintiff's petition, Plaintiff respectfully requests the Board grant Plaintiff seven (7) days leave to amend the petition to correct such defects. The outright dismissal Defendant seeks would serve neither the interests of administrative economy nor the interests of justice. See TBMP § 503.03 ("If no amended

¹⁴ "[15 U.S.C. § 1052(c)] requires the written consent of a particular individual in certain cases and *if this written consent does not exist in those cases in which it is required there can not be any registration*. The only material question involved is whether this is a case where the written consent of a particular individual is required. Consent to register must be distinguished from consent to use. There may very well be consent to use without any consent to register. And neither is consent to register sufficient under the statute unless it is a written consent as specified in the statute." *Reed*, 100 U.S.P.Q. at 199 (emphasis added).

complaint is submitted in response to a motion to dismiss for failure to state a claim upon which relief can be granted, and the Board finds, upon determination of the motion, that the complaint fails to state a claim upon which relief can be granted, the Board generally will allow the plaintiff an opportunity to file an amended pleading.”)

IX. Conclusion

Because Plaintiff has established its standing and properly raised statutory grounds for cancellation of the registration at issue, Defendant’s motion should be denied in its entirety.

This Response is being filed electronically pursuant to the ESTTA system.

Respectfully submitted,

Date: October 23, 2013

/Joseph A Uradnik/
Joseph A. Uradnik
URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447
Tel.: (763) 432-5380
Fax: (763) 322-9797
Email: joe@iplawspot.com

ATTORNEY FOR TASTES GREAT LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION TO DISMISS has been served by agreement of the parties via email on Defendant’s counsel, on October 23, 2013, at the email addresses set forth below.

Carl Spagnuolo
McHale & Slavin, P.A.
cspagnuolo@mchaleslavin.com
ustrademarks@mchaleslavin.com

Date: October 23, 2013

/Joseph A Uradnik/
Joseph A. Uradnik

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

In re Registration No. 3,484,548	§	
On the Principal Register	§	
Mark: STEVE'S & ED'S	§	
Issued: August 12, 2008	§	
	§	
Tastes Great LLC,	§	Cancellation No. 92057664
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
Master Sales & Marketing, LLC,	§	
	§	
Defendant.	§	

**DECLARATION OF JOSEPH A. URADNIK IN SUPPORT OF PLAINTIFF'S RESPONSE
TO DEFENDANT'S MOTION TO DISMISS**

I, Joseph A. Uradnik, declare as follows:

1. I am an attorney with the law firm Uradnik Law Firm PC. I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.
2. Exhibits A-U accompanying this declaration are provided in support of Plaintiff's Response to Defendant's Motion to Dismiss.
3. Exhibits A-F, I-J, and L-M are true and correct copies of communications between counsel for the parties to this cancellation proceeding.
4. Exhibit G is a true and correct copy of the petition for cancellation filed on August 9, 2013, in this proceeding.
5. Exhibit H is a true and correct copy of the sales receipts for postage for service of the petition for cancellation in this proceeding.
6. Exhibit K is a true and correct copy of the Combined Declaration of Use and Incontestability under Sections 8 & 15 and the specimen submitted on August 16, 2013, for US

trademark registration no. 3,484,548 (serial no. 77370588), as downloaded from the US Patent & Trademark Office (“USPTO”) Trademark Status & Document Retrieval (TSDR) system.

7. Exhibit N is a true and correct copy of the webpage downloaded from <<<http://dictionary.reference.com/browse/steve?qsrc=2446>>> on October 15, 2013.

8. Exhibit O is a true and correct copy of the webpage downloaded from <<<http://dictionary.reference.com/browse/'s?s=t>>> on October 21, 2013.

9. Exhibit P consists of true and correct copies of US trademark registration certificates available from the USPTO website.

10. Exhibit Q is a true and correct copy of the webpage downloaded from <<<https://www.google.com/#psj=1&q=steve>>> on October 21, 2013.

11. Exhibit R consists of true and correct copies of the webpages downloaded from <<<http://www.ssa.gov/cgi-bin/babyname.cgi>>>, <<<http://dictionary.reference.com/browse/Ed?s=t>>>, <<<https://www.google.com/#q=edand>>> on October 23, 2013.

12. Exhibit S is a true and correct copy of the webpage downloaded from <<<http://www.stevesandeds.com/#!company/c2414>>> on August 9, 2013.

13. Exhibit T is a true and correct copy of the webpage downloaded from <<<http://www.stevesandeds.com/>>> on August 9, 2013.

14. Exhibit U is a true and correct copy of the registration certificate for US trademark registration no. 3,484,548 (serial no. 77370588), the registration at issue in this cancellation proceeding.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Plymouth, Minnesota on October 23, 2013.

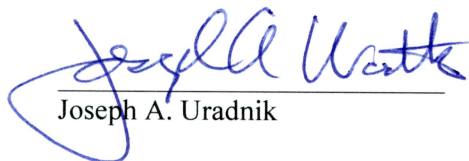

Joseph A. Uradnik

EXHIBIT A

McHALE & SLAVIN, P.A.

ATTORNEYS AT LAW

U.S. & INTERNATIONAL PATENTS, TRADEMARKS, COPYRIGHTS,
RELATED LICENSING & LITIGATION

2855 PGA BOULEVARD
PALM BEACH GARDENS • FLORIDA • 33410-2910
TELEPHONE (561) 625-6575 FACSIMILE (561) 625-6572
palmbeach@mchaleslavin.com

June 25, 2013

Steve Olds
Tastes Great, LLC
1120 N.W. 4th Street
Grand Rapids, Minnesota 55744

Re: Trademark Conflict; STEVE'S PEPPER SAUCE
Our Reference No.: 3317U.000001

Dear Mr. Olds:

We represent Master Sales & Marketing, LLC ("our client") with regard to its intellectual property matters. Our client is the owner of U.S. Trademark Registration No. 3,484,548 for the mark "STEVE'S & ED'S" for use in connection with sauces, spices and rubs, namely, chicken wing sauce, steak sauce, teriyaki sauce, chili sauce, barbeque sauce and hot sauces; mustard; ketchup and marinade. (See enclosed copy of U.S. Registration Certificate 3,484,548). This mark was first used in commerce by our client at least as early as March 20, 1992. Our client's federal trademark registration constitutes prima facie evidence of its exclusive right to use the mark in connection with the aforementioned goods, and constructive notice to others of its ownership of the mark.

Our client has built up substantial goodwill in its federally registered mark and will aggressively protect its rights in its intellectual property.

We have recently learned that Tastes Great, LLC ("Tastes Great") is using the term, "STEVE'S" and "STEVE'S PEPPER SAUCE" to advertise hot sauce and related products. In addition, we have discovered that Tastes Great filed a Minnesota trademark application on October 12, 2012, to register the mark "STEVE'S PEPPER SAUCE," which incorporates a predominant portion of our client's trademark: "STEVE'S." (File No. 621870500024). We note that Tastes Great applied for this state trademark registration nearly twenty (20) years after our client's first use of its federally registered trademark.

Use of the term, "STEVE'S", the predominant portion of our client's trademark, in connection with goods which are identical or highly similar to those offered by our client causes our client great concern. Tastes Great's unauthorized use of our client's federally registered trademark in connection with the sale of its goods is likely to cause confusion, mistake or deception, and constitutes trademark infringement, unfair competition, false designation of origin and false description. This is substantiated by the fact that there has been at least one instance of

June 25, 2013

actual confusion in the marketplace. Specifically, a representative with Wakefern Food Corporation, one of our client's distributors, has recently contacted Master Sales & Marketing regarding the "STEVE'S PEPPER SAUCE" brand, inquiring as to whether this was a new product line of our client. In a trademark infringement suit, evidence of actual confusion in the marketplace is highly probative, if not conclusive, of a high likelihood of confusion. In re Majestic Distilling Co., 315 F.3d 1311, 1317 (Fed. Cir. 2003).

In that our client wishes to avoid any likelihood of confusion with respect to its valuable registered trademark, we must request that you immediately:

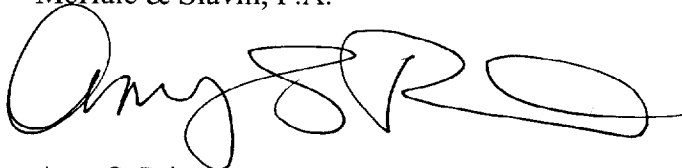
1. Cease all use of the term, "STEVE'S", or any confusingly similar term, in connection with goods which are identical or related to the goods provided by our client; and
2. Destroy all materials showing use of the "STEVE'S" term; and
3. Expressly abandon or withdraw the Minnesota trademark application/registration File No. 621870500024.

If you agree in writing to these demands, our client will consider foregoing its claim for damages.

This matter is of considerable importance to our client. Therefore, we would appreciate receiving your response in the next 14 days, on or before July 11, 2013. This letter is being sent to you via U.S. Mail.

This letter does not constitute an exhaustive statement of our client's position, nor does it constitute a waiver or limitation of any of their legal or equitable rights, all of which are expressly reserved. Thank you for your prompt attention to this matter and we look forward to a favorable response.

Sincerely,
McHale & Slavin, P.A.

A handwritten signature in black ink, appearing to read "Amy S. Price". The signature is fluid and cursive, with the first name "Amy" being the most prominent part.

Amy S. Price

EXHIBIT B

From: "Amy Price" <aprice@mchaleslavin.com>
Subject: RE: Your Reference No. 3317U.000001 (Master Sales & Marketing LLC)
Date: July 9, 2013 3:51:21 PM CDT
To: "Joseph Uradnik" <joe@iplawspot.com>

Dear Joe,

Thank you for your preliminary response. I will direct all further communication to you, directly.

We acknowledge your representation that a formal response will be provided to us no later than July 26.

Regarding your additional inquiries, with all due respect, the identity of "Steve" and "Ed", or any relationship between a "Steve" or "Ed" and Master Sales & Marketing, is irrelevant. Regardless of the history or relationship, the fact remains that "Steve's & Ed's" is a registered trademark for various sauces, that there is a likelihood of confusion, and that there is at least one instance of actual confusion in the relevant market between our client's mark and your client's mark.

We look forward to receiving your response accordingly.

Sincerely,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

NOTICE: This communication (including any attachments) is covered by the Electronic Communications Privacy Act (18 USC 2510 et seq) and is intended to remain confidential and is subject to applicable attorney/client and/or work product privileges. If you have received this e-mail in error, please immediately notify us by telephone at (561) 625-6575 or by reply e-mail. Do not deliver, distribute or copy this message and/or any attachments and, if you are not the intended recipient, do not disclose the contents or take any action in reliance upon the information contained in this communication or any attachments. Any unauthorized use or dissemination of this message in whole or in part is strictly prohibited and may be held to be an interference with attorney communications. This message (including any attachments) has been scanned by anti-virus software before sending.

From: Joseph Uradnik [mailto:joe@iplawspot.com]
Sent: Tuesday, July 09, 2013 3:50 PM
To: aprice@mchaleslavin.com
Subject: Your Reference No. 3317U.000001 (Master Sales & Marketing LLC)

Hello Amy,

I represent Tastes Great LLC with respect to intellectual property matters. Your letter to my client dated June 25, 2013, has been brought to my attention for response.

I will investigate this matter promptly and respond to your letter no later than July 26. To that end it would be helpful if you kindly would identify who "Steve" and "Ed" are of "Steve's & Ed's" sauces. Also, please explain their history with and relationship to your client, Master Sales and Marketing LLC.

To expedite matters, please direct all future communications related to this matter directly to my attention via email to: joe@iplawspot.com.

Thank you for your assistance. I look forward to hearing from you.

Best regards,
Joe

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

Mailing Address:
URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447

*Admitted in Minnesota, Texas, and California
Registered, US Patent and Trademark Office*

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EXHIBIT C

From: "Amy Price" <aprice@mchaleslavin.com>
Subject: RE: Your Reference No. 3317U.000001 (Master Sales & Marketing LLC)
Date: July 10, 2013 1:12:17 PM CDT
To: "Joseph Uradnik" <joe@iplawspot.com>

Joe,

I wanted to inform you that an honest mistake was made with regard to my letter dated June 25, 2013, and my recent email. While we still believe that there is a likelihood of confusion between the marks, please disregard the reference to the one instance of actual confusion with Wakefern Food Corp. My sincerest apologies. We were misinformed with regard to the brand.

We are still expecting a response from you by July 26.

I look forward to hearing from you.

Best,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Amy Price [mailto:aprice@mchaleslavin.com]
Sent: Tuesday, July 09, 2013 4:51 PM
To: 'Joseph Uradnik'
Subject: RE: Your Reference No. 3317U.000001 (Master Sales & Marketing LLC)

Dear Joe,

Thank you for your preliminary response. I will direct all further communication to you, directly.

We acknowledge your representation that a formal response will be provided to us no later than July 26.

Regarding your additional inquiries, with all due respect, the identity of “Steve” and “Ed”, or any relationship between a “Steve” or “Ed” and Master Sales & Marketing, is irrelevant. Regardless of the history or relationship, the fact remains that “Steve’s & Ed’s” is a registered trademark for various sauces, that there is a likelihood of confusion, and that there is at least one instance of actual confusion in the relevant market between our client’s mark and your client’s mark.

We look forward to receiving your response accordingly.

Sincerely,
Amy

McHALE & SLAVIN, P.A.
Amy S. Price

2855 PGA Boulevard
Palm Beach Gardens, Florida 33410
Tel.: (561) 625-6575
Fax: (561) 625-6572
E-mail: Aprice@McHaleSlavin.com

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From: Joseph Uradnik [<mailto:joe@iplawspot.com>]
Sent: Tuesday, July 09, 2013 3:50 PM
To: aprice@mchaleslavin.com
Subject: Your Reference No. 3317U.000001 (Master Sales & Marketing LLC)

Hello Amy,

I represent Tastes Great LLC with respect to intellectual property matters. Your letter to my client dated June 25, 2013, has been brought to my attention for response.

I will investigate this matter promptly and respond to your letter no later than July 26. To that end it would be helpful if you kindly would identify who "Steve" and "Ed" are of "Steve's & Ed's" sauces. Also, please explain their history with and relationship to your client, Master Sales and Marketing LLC.

To expedite matters, please direct all future communications related to this matter directly to my attention via email to: joe@iplawspot.com.

Thank you for your assistance. I look forward to hearing from you.

Best regards,
Joe

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

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EXHIBIT D

URADNIK

INTELLECTUAL PROPERTY LAW

URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447
T: (763) 432-5380
F: (763) 322-9797

Joseph A. Uradnik
(612) 865-9449 (mobile)
joe@iplawspot.com

via email: aprice@mchaleslavin.com

July 26, 2013

Amy S. Price
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, Florida 33410

Re: Your Reference No. 3317U.000001

Dear Amy,

This letter responds to your letter dated June 25, 2013, to Tastes Great, LLC.

You have identified and corrected the “honest mistake” made in the June 25 letter related Wakefern Food Corporation, confirming that there is no actual confusion here. Consequently, the June 25 letter provides no facts whatsoever supporting the letter’s allegations.

If you have any evidence that tends to suggest that there is a likelihood of confusion in this case, that confusion is widespread, and/or that actual confusion has in fact occurred here, please provide specific details for our consideration without delay (preferably set forth in the form of a likelihood of confusion analysis that addresses each of the pertinent factors). However, we trust that your client by now has reconsidered its position, and that it will agree in writing to drop this matter completely.

Please know that my client prefers to resolve this matter amicably, without resort to burdensome and costly litigation. For either side now to devote any time or attention to a legal dispute serves no one (other than the attorneys, of course).

This letter is sent with full reservation of my client’s rights and remedies. We look forward to hearing from you.

Sincerely yours,

URADNIK LAW FIRM PC



Joseph A. Uradnik

EXHIBIT E

From: "Amy Price" <aprice@mchaleslavin.com>
Subject: RE: Your Ref. No. 3317U.000001
Date: July 31, 2013 7:44:15 AM CDT
To: "Joseph Uradnik" <joe@iplawspot.com>

Hi Joe,

I received your response of July 26. We will be providing a reply soon.

Regards,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Joseph Uradnik [mailto:joe@iplawspot.com]
Sent: Tuesday, July 30, 2013 6:53 PM
To: Amy Price
Subject: Your Ref. No. 3317U.000001

Hello Amy,

Please confirm by return email your receipt of my letter to you dated July 26, 2013.

Under the circumstances, an appropriate settlement agreement will need to be put in place to finally resolve this matter. Thus, if you also confirm in your email that your client will agree to "walk away" and simply drop this matter, I will prepare a draft agreement to that effect for your review.

Thank you for your assistance, and for your prompt attention to this matter.

Best regards,
Joe

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
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EXHIBIT F

URADNIK

INTELLECTUAL PROPERTY LAW

URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447
T: (763) 432-5380
F: (763) 322-9797

Joseph A. Uradnik
(612) 865-9449 (mobile)
joe@iplawspot.com

via email: aprice@mchaleslavin.com

August 9, 2013

Amy S. Price
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, Florida 33410

Re: Unfair/Deceptive Trademark Enforcement Efforts
(Our Ref. No. TAST39-01002)

Dear Ms. Price:

My client, Tastes Great LLC, received a demand letter from you dated June 25, 2013, alleging trademark infringement. The infringement allegations are with respect to US Trademark Registration No. 3,484,548, for the alleged mark STEVE'S & ED'S, purportedly used in connection with sauces, spices, and rubs, namely chicken wing sauce, steak sauce, teriyaki sauce, chili sauce, barbeque sauce and hot sauces; mustard; ketchup and marinade.

The infringement assertions as set forth in your letter are unsubstantiated and contain false, misleading, or deceptive statements. In Minnesota, businesses and consumers are protected from baseless harassment, particularly that which bears the potential for costly and destructive litigation.

In this case, the actions of your client are especially egregious threats that serve to advance no valid legal purpose or the legitimate protection of productive intellectual property. Rather, your client only seeks to extract a quick settlement from a growing Minnesota company committed to building its business and providing positive value to society.

US Trademark Registration No. 3,484,548 is voidable. My client today submitted a petition to the US Trademark Trial and Appeal Board to cancel the registration. The cancellation petition asserts, among other things, a violation of 15 U.S.C. § 1052(c). Under that statute, a trademark that "consists or comprises a name, portrait, or signature identifying a particular living individual" requires that the written consent of such individual be filed with the US Patent and Trademark Office for the registration to be valid. The mark in question need not be a full name. It can be a surname only, a given name, or even a nickname, as long as it identifies a particular living individual. Moreover, the requirement of a written consent to register is not met by the mere existence of consent to use the name. The consent must in fact be consent to register the mark in question. Even a license to use the name as a mark is not sufficient if a written consent to register is not filed.

Amy Price
August 9, 2013
Page 2 of 2

In this case, because the required written consent to register was not filed, the consequences for your client are severe. The failure to file a written consent will be used as a basis to cancel its registration.

We do not know at present whether there is a pattern and practice here of deceptively alleging trademark infringement and subsequent litigation. However, unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

The violations specified in this letter are serious and require immediate attention and cooperation from your client. Already there have been significant ramifications to my client by your client's conduct, including at a minimum devoting considerable time and attention to this matter, and having to incur attorney's fees and other costs.

While my client remains open to resolving this matter without resort to litigation, it is prepared to use every means at its disposal to not only prevail against your client's baseless claims and make itself whole, but also to prevent such conduct and deter its future occurrence.

My client demands that your client immediately cease and desist any and all trademark infringement and other enforcement against it, and immediately begin good faith negotiations toward settling the current dispute on mutually agreeable terms. At a minimum, your client will need to compensate my client for the damages it has suffered here, which amount will continue to increase if this matter is not resolved by agreement of the parties. Your client also must abandon its trademark registration.

This letter is sent with express reservation of all rights and remedies.

Sincerely yours,

URADNIK LAW FIRM, P.C.

/Joseph A Uradnik/

Joseph A. Uradnik

 **Petition for Cancellation**

Joseph A. Uradnik

Sent: Friday, August 9, 2013 8:30 PM

To: Amy Price

Bcc: Clio Maildrop TAST39-01001 Trademark Dispute re: STEVE'S PEPPER SAUCE

 Petition_for_Cancellation.pdf (193.4 KB);  USPTO. ESTTA. Receipt.pdf (159.9 KB);  Price_Letter_2013_08_09.pdf (162 KB)

[Preview All](#)

See attached.

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
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joa@mnlawspot.com
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EXHIBIT G

ESTTA Tracking number: **ESTTA553349**

Filing date: **08/09/2013**

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 requests to cancel indicated registration.

Petitioner Information

Name	TASTES GREAT LLC		
Entity	LIMITED LIABILITY COMPANY	Citizenship	MINNESOTA
Address	1120 N.W. 4TH ST GRAND RAPIDS, MN 55744 UNITED STATES		

Attorney information	JOSEPH A. URADNIK URADNIK LAW FIRM PC P.O. BOX 47624 MINNEAPOLIS, MN 55447 UNITED STATES joe@iplawspot.com Phone:763-432-5380		
----------------------	--	--	--

Registration Subject to Cancellation

Registration No	3484548	Registration date	08/12/2008
Registrant	Master Sales & Marketing, LLC 11381 Prosperity Farms Road Palm Beach Gardens, FL 33410 UNITED STATES		

Goods/Services Subject to Cancellation

Class 030. First Use: 1992/03/20 First Use In Commerce: 1992/03/20 All goods and services in the class are cancelled, namely: SAUCES, SPICES AND RUBS, NAMELY, CHICKEN WING SAUCE, STEAK SAUCE, TERIYAKI SAUCE, CHILI SAUCE, BARBEQUE SAUCE AND HOT SAUCES; MUSTARD; KETCHUP; AND MARINADE

Grounds for Cancellation

Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	First Amendment; Right of Publicity

Attachments	Petition_for_Cancellation.pdf(146497 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joseph A Uradnik/
Name	JOSEPH A. URADNIK
Date	08/09/2013

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

In re Registration No. 3,484,548	§	
On the Principal Register	§	
Mark: STEVE'S & ED'S	§	
Issued: August 12, 2008	§	
	§	
Tastes Great LLC,	§	Cancellation No. _____
	§	
Petitioner,	§	
	§	
v.	§	
	§	
Master Sales & Marketing, LLC,	§	
	§	
Registrant.	§	

PETITION FOR CANCELLATION

Tastes Great LLC, a Minnesota limited liability company having a place of business at 1120 N.W. 4th Street, Grand Rapids, Minnesota 55744, believes that it is damaged by Registration No. 3,484,548, and hereby petitions to cancel the same under the provisions of 15 U.S.C. § 1064 (1) and (3). As grounds for cancellation, Petitioner asserts that:

1. Petitioner Tastes Great LLC ("Tastes Great") is a growing Minnesota company that has manufactured and sold pepper sauce since 2005. Tastes Great markets its pepper sauce using the trademark shown below, which is the subject of US Trademark Registration Application No. 86/021,560, filed on July 26, 2013, and owned by Tastes Great.



2. On June 25, 2013, Registrant (acting through its attorneys) issued a demand letter to Tastes Great LLC alleging, among other things, trademark infringement with respect to US Trademark Registration No. 3,484,548 (i.e., the registration at issue).

3. The registration at issue consists of an alleged word mark (“STEVE’S & ED’S”) purportedly used in connection with the products involved herein, namely, “sauces, spices, and rubs, namely chicken wing sauce, steak sauce, teriyaki sauce, chili sauce, barbeque sauce and hot sauces; mustard; ketchup and marinade.”

4. The registration at issue merely consists of the possessive form of two names (i.e., “Steve” and “Ed”) joined by an ampersand (“&”) representing the conjunction word “and.”

5. Registrant’s website, <<stevesandeds.com>>, advertises that Ed and Steve are “a father and son team.”

6. As used in the registration at issue, the name “Steve” refers to a living individual, Steve Shtafman.

7. As used in the registration at issue, the name “Ed” refers to Ed Shtafman, an individual who was alive at the time the application to register the alleged mark was filed.

8. Ed Shtafman is Steve Shtafman’s father. Ed Shtafman passed away in 2012.

9. Ed Shtafman is neither well-known nor famous. Steve Shtafman is neither well-known nor famous. The alleged trademark, whether considered in whole or in part, is neither well-known nor famous.

10. US Patent and Trademark Office records, including without limitation the certificate for the registration at issue, do not reflect any submission of written consent to registration by Steve Shtafman or by Ed Shaftman for the alleged mark.

11. Neither Steve Shtafman nor Ed Shaftman, nor anyone else, prepared and/or signed and/or submitted to the US Patent and Trademark Office a written consent to registration for the alleged mark, as required under 35 U.S.C. § 1052(c), which makes the registration at issue void *ab initio*.

12. The names “Steve” and “Ed” are extremely common first names used in various forms by many individuals throughout the United States and the world.

13. The names “Steve” and “Ed” are so common that consumers do not assume that two products bearing the names have the same source and will not be confused.

14. The alleged mark merely consists of extremely common first names and thus is not registrable.

15. The names “Steve” and “Ed” are widely used descriptively by businesses (including Registrant) to name persons involved in such businesses.

16. The names “Steve” and “Ed” are so commonly used descriptively by businesses that neither “Steve” nor “Ed” is capable, separately or together, whether in a possessive form or not, of pinpointing one source of all the goods and services that are described using such names.

17. In the registration at issue, the name “Steve” must be disclaimed, the name “Ed” must be disclaimed, and/or the entirety of the alleged mark must be disclaimed, so that cancellation of the registration at issue is warranted.

18. The use of an individual’s name (first name, last name, surname, nickname, etc.) is an extremely common practice to indicate approval and/or endorsement of a product or service by such individual.

19. The names “Steve’s” and “Ed’s”, separately or together, whether in a possessive form or not, serve as approval statements and/or endorsements of Registrant’s goods.

20. The names “Steve’s” and “Ed’s”, separately or together, whether in a possessive form or not, are merely approval statements and/or endorsements that are incapable of distinguishing Registrant’s goods, and thus are incapable serving as a trademark.

21. The names “Steve” and “Ed”, separately or together, whether in a possessive form or not, are generic for and/or highly descriptive of Registrant’s goods, and/or a quality and/or a characteristic and/or a feature of Registrant’s goods, at least inasmuch as the names indicate an approval and/or endorsement of such goods by Steve Shtafman and Ed Shaftman, respectively.

22. Neither the name “Steve” nor the name “Ed”, separately or together, whether in a possessive form or not, is capable of distinguishing Registrant’s goods pursuant to 15 U.S.C. § 1064(3) because such names are generic terms.

23. Neither the name “Steve” nor the name “Ed”, separately or together, whether in a possessive form or not, is capable of distinguishing Registrant’s goods pursuant to 15 U.S.C. § 1064(3) because such names are so highly descriptive of Registrant’s goods that they are incapable of acquiring distinctiveness as a trademark.

24. Alternatively, should the Board conclude that the names “Steve” and “Ed” are neither generic nor merely descriptive, Registrant has not acquired distinctiveness in the name “Steve” nor the name “Ed”, separately or together, whether in a possessive form or not, for Registrant’s goods because Petitioner and others in the field have substantially and continuously used the names “Steve” and “Ed”, separately or together, whether in a possessive form or not, in a descriptive/generic manner to describe their products.

25. Under the circumstances here, Registrant is estopped from arguing that the alleged mark is registrable without Registrant showing for the alleged mark: fame and/or strong proof of secondary meaning and/or clear and convincing proof of secondary meaning.

26. Petitioner (and other individuals named Steve) have a present and prospective right to use the name “Steve,” whether in a possessive form or not, generically and/or descriptively in their business.

27. Other individuals named Ed have a present and prospective right to use the name “Ed,” whether in a possessive form or not, generically and/or descriptively in their business.

28. Steve Shtafman and Ed Shtafman, both individually and together, have acted to create a public association between Registrant and themselves.

29. Steve Shtafman is acting, and will continue to act, to create a public association between Registrant and himself.

30. The Trademark Laws, including without limitation 35 U.S.C. § 1052(c), regulate both commerce and speech. The First Amendment acts as a limit on the scope of federal trademark registrations.

31. The First Amendment provides a basis for cancellation of the registration at issue. Alternatively, the First Amendment limits the registration at issue to such an extent so as to eliminate any continued registration of the alleged mark as serving as a source of damage and injury to Petitioner (and others), including inasmuch as it would impair Petitioner’s right to use the name “Steve” accurately for business.

32. Allowing continued registration of Registrant’s mark is a source of damage and injury to Petitioner (and others) in business inasmuch as it would impair the right of Petitioner (and others) to make generic and descriptive use of the name “Steve.”

33. Allowing continued registration of Registrant’s mark is a source of damage and injury to consumers, inasmuch as it would deprive consumers of useful descriptive information.

34. No empirical data or objective evidence exists to establish as false, deceptive, or misleading the use of the word “Steve” by those other than Registrant, i.e., by Petitioner and by others in business.

35. There is nothing false or inaccurate in Petitioner’s use of “Steve,” so no registration including the term “Steve” may extend to create an exclusive right prohibitive of Petitioner’s use of “Steve” and/or registration of the trademark that is the subject of US Trademark Registration Application No. 86/021,560.

36. The right to use one’s name is a sacred right under the law. Because registration of the alleged mark would necessarily impinge upon that sacred right, the alleged mark is not registrable.

37. The name “Steve” is central to Petitioner’s most basic form of free speech: the identification of itself to another.

38. Petitioner values, and has worked to create and strengthen, a public association between Steve Olds and itself, e.g., through its “Who the Heck is Steve?” advertising efforts.

39. For Steve Olds, the name “Steve” is central to his most basic form of free speech: the identification of himself to another.

40. Allowing continued registration of Registrant’s mark is a source of damage and injury to Petitioner inasmuch as it would impair the right of Petitioner to create and further strengthen a public association between Steve Olds and itself.

41. Allowing continued registration of Registrant’s mark is a source of injury and damage to Petitioner (and others in business, including Steve Olds) inasmuch as it would have a chilling effect on speech inherent in a name.

42. Allowing continued registration of Registrant’s mark is a source of injury and damage to Petitioner (and others in business) inasmuch as it would take a right to speak from

Petitioner and give it to Registrant, thus depriving Petitioner of the right to use speech to establish, maintain, and/or expand worth, standing, fame, publicity, and respect for its voice.

43. In view of the above allegations, Registrant is not entitled to continued registration of its alleged mark because Registrant is not entitled to exclusive use of the said term in commerce in connection with the products specified and, further, Registrant's alleged mark does not function to identify Registrant's products and distinguish them from those offered by others.

WHEREFORE, for the reasons set forth above, Petitioner requests that Registration No. 3,484,548 be cancelled.

This Petition for Cancellation is being filed electronically pursuant to the ESTTA system.

Respectfully submitted,

Date: August 9, 2013

/Joseph A Uradnik/
Joseph A. Uradnik
URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447
Tel.: (763) 432-5380
Fax: (763) 322-9797
Email: joe@iplawspot.com

ATTORNEY FOR TASTES GREAT LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION FOR CANCELLATION has been served via First Class Mail, postage pre-paid, on Registrant and counsel for Registrant at the addresses below, on August 9, 2013.

Master Sales & Marketing, LLC
11381 Prosperity Farms Road
Palm Beach Gardens, FL 33410

Carl J. Spagnuolo
Amy S. Price
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, Florida 33410

In addition, a courtesy copy of the foregoing PETITION FOR CANCELLATION was sent to Ms. Price on August 9, 2013, via email addressed to: aprice@mchaleslavin.com.

Date: August 9, 2013

/Joseph A Uradnik/
Joseph A. Uradnik

EXHIBIT H

=====

PLYMOUTH
3300 PLYMOUTH BLVD
MINNEAPOLIS, MN 55447-1446

08/09/2013

08:46:01 PM

=====

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
------------------------	-------------	---------------	----------------

PALM BEACH GARDENS, FL 33410 Zone-7			\$.66
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First-Class Mail® Letter

0 lb. 2.00 oz.

* Scheduled Delivery Day Tuesday,
August 13.

Issue Postage:			=====	\$.66
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\$.46 Stamp	1	\$.46		\$.46
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Total:			=====	\$1.12
--------	--	--	-------	--------

Paid by:

DebitCard				\$1.12
-----------	--	--	--	--------

Account #: XXXXXXXXXXXXX2788

Approval #: 043492

Transaction #: 687

23-902340074-99

Receipt #: 016145

SSK Transaction #: 68

USPS® # 266329-9561

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=====

PLYMOUTH
3300 PLYMOUTH BLVD
MINNEAPOLIS, MN 55447-1446

08/09/2013

08:42:27 PM

=====

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
------------------------	-------------	---------------	----------------

PALM BEACH GARDENS, FL 33410 Zone-7			\$.86
---	--	--	--------

First-Class Mail® Letter

0 lb. 2.40 oz.

* Scheduled Delivery Day Tuesday,
August 13.

Issue Postage:			=====	\$.86
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Forever® Postage	10	\$.46		\$4.60
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Total:			=====	\$5.46
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Paid by:
DebitCard \$5.46

Account #: XXXXXXXXXXXXX2788

Approval #: 155135

Transaction #: 686

23-902340074-99

Receipt #: 016144

SSK Transaction #: 67
USPS® #: 266329-9561

Thanks.

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ALL SALES FINAL ON STAMPS AND POSTAGE.
REFUNDS FOR GUARANTEED SERVICES ONLY.

EXHIBIT I

McHALE & SLAVIN, P.A.

ATTORNEYS AT LAW

U.S. & INTERNATIONAL PATENTS, TRADEMARKS, COPYRIGHTS,
RELATED LICENSING & LITIGATION

2855 PGA BOULEVARD
PALM BEACH GARDENS • FLORIDA • 33410-2910
TELEPHONE (561) 625-6575 FACSIMILE (561) 625-6572
palmbeach@mchaleslavin.com

August 13, 2013

Joseph Uradnik
Uradnik Law Firm, P.C.
P.O. Box 47624
Minneapolis, MN 55447
Via E-mail: joe@iplawspot.com

**FOR SETTLEMENT PURPOSES ONLY
UNDER F.R.E. 408**

Re: Trademark Conflict "STEVE'S & ED'S"
Our Reference No.: 3317U.001
Your Reference. No.: TAST39-01002

Dear Mr. Uradnik:

This is in response to your letter dated August 9, 2013, and your client's filing of a Petition to Cancel my client's trademark registration. Contrary to your assertions in your letter, my client's claims of a likelihood of confusion between your client's "STEVE'S PEPPER SAUCE" mark and my client's federally registered trademark "STEVE'S & ED'S", for goods which are identical to my client, are certainly not "baseless harassment." Rather, my client has simply exercised its rights, in good faith, in putting your client on notice of my client's exclusive rights to use its mark in commerce. It is your client, not mine, who has now filed a baseless action with the USPTO in undue haste.

In response to your claims under Section 1052 (c) of the Lanham Act, while the Trademark Office generally inquires whether a particular name is that of a living individual who is generally known or publicly connected with the business in which the mark is used, the fact that such information was not provided to the Trademark Office does not render my client's application "void." Even if the application were subject to cancellation on this basis, your client is not the proper party to bring such an action. Section 1052 (c) of the Lanham Act exists to protect the privacy and property interests of persons whom the public will associate with the mark. Prevailing case law provides that third parties not in privity with the individuals to whom a mark refers are precluded from asserting that a particular registration is prohibited by Section 1052 (c). Accordingly, as there is no privity between your client and Steven or Ed Shtafman, your client has no standing to cancel my client's mark based on Section 1052 (c).

Joseph Uradnik
Our Ref. No. 3317U.001
page 2

August 13, 2013


In addition, taking into consideration your assertions in your Petition for Cancellation that the names "Steve" and "Ed" are "highly descriptive and/or generic", it is surprising then that the Trademark Office has *never* required one of these names to be disclaimed in connection with any goods or services. It's also surprising that, despite your client's claim that the name "Steve" is "generic" in my client's trademark, your client has not disclaimed this name in *its* application for goods identical to my client's. Your bases set forth in the Petition for Cancellation are extremely weak, if not completely meritless, especially in this case considering the fact that my client has been using its mark in commerce for a very long time—over twenty years.

What's even more preposterous is that, contrary to your assertions in your letter dated July 26, 2013 that your client preferred to "resolve this matter amicably", and despite my representation to you that I would be providing you with a response, your client has "jumped the gun", so to speak, in filing a meritless Petition for Cancellation, in an attempt to strong-arm my client to back down, and yet now is alleging that *my client's* actions are "especially egregious threats that serve to advance no valid legal purpose."

My client was considering resolving this matter amicably, and has in fact determined that it would be preferable to settle this matter by entering into a co-existence agreement instead of resorting to costly litigation. Accordingly, the invitation remains open: our respective clients may enter into a mutual consent and co-existence agreement, thereby resolving all disputes (and withdraw the Petition to Cancel). Otherwise, we will be forced to defend the Petition for Cancellation and file an Opposition against your client's trademark application, when the time is appropriate. While my client is agreeable to discontinue its allegations of trademark infringement against your client under the terms of a consent agreement, and to agree that our respective client's marks are capable of coexisting in the market, it will not agree to compensate your client for any damages, nor will it be abandoning its trademark registration.

Please let me know if these terms are agreeable by Friday, August 16, 2013. If they are, I would be happy to draft the necessary documents.

Sincerely,
McHale & Slavin, P.A.



Amy S. Price

EXHIBIT J

From: "Amy Price" <aprice@mchaleslavin.com>
Subject: RE: Petition for Cancellation
Date: August 15, 2013 1:40:12 PM CDT
To: "Joseph Uradnik" <joe@iplawspot.com>

Thank you, Joe. I look forward to hearing from you.

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Joseph Uradnik [mailto:joe@iplawspot.com]
Sent: Thursday, August 15, 2013 10:43 AM
To: Amy Price
Subject: Re: Petition for Cancellation

Amy,

I will discuss this matter with my client and get back to you. In the meantime, please plan to file an answer by 09/21/13, or let me know if you will need a 1-month extension of the period to answer.

Best,
Joe

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

Mailing Address:
URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447

*Admitted in Minnesota, Texas, and California
Registered, US Patent and Trademark Office*

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On Aug 14, 2013, at 4:37 PM, Amy Price wrote:

Joe,

I want to reiterate that my client remains willing to resolve this matter and to enter into a consent and coexistence agreement with Tastes Great.

I just don't see how any particularly sensitive information is going to be disclosed for these purposes to justify broadening the protections of FRE 408. It shouldn't require any confidential disclosures of business strategies, trade secrets, etc. You're asking us to operate in the dark and agree to something before we know what it is. Accordingly, we prefer to operate under the default provisions regarding settlement discussions.

Please let me know if your client is agreeable.

Kind regards,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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strictly prohibited and may be held to be an interference with attorney communications. This message (including any attachments) has been scanned by anti-virus software before sending.

From: Joseph Uradnik [<mailto:joe@iplawspot.com>]
Sent: Wednesday, August 14, 2013 1:05 PM
To: Amy Price
Subject: Re: Petition for Cancellation

Amy,

We are requesting an agreement that is broader than the protections of FRE 408. We are requesting not only strict confidentiality, but also (i) that the discussions will be used only for settlement purposes, and (ii) that the parties' statements will not be used by either party in any administrative or legal proceeding of any type, now or in the future (e.g., opposition proceeding, district court action, etc.)?

Two examples (provided by way of example only, and without limitation): (1) the exceptions of FRE 408(b) would not apply; (2) our clients would be prohibited from shifting their business strategies in response to any information that might be learned during negotiations.

Best,
Joe

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
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On Aug 14, 2013, at 11:35 AM, Amy Price wrote:

Joe,

We would like to help promote resolution of the dispute. However, I'm not sure what you're held up on. We agree that all SETTLEMENT discussions will be kept confidential (which includes conduct or statements made during compromise negotiations about the claim), and will not be admissible as evidence in any proceeding or district court action as provided for under FRE 408.

I expect that our consent and co-existence agreement would provide that neither party will seek to oppose/cancel the other party's mark. I would also expect our settlement agreement to be confidential.

So I'm not quite sure what you are concerned about, or what you are asking me to agree to.

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Joseph Uradnik [<mailto:joe@iplawspot.com>]

Sent: Wednesday, August 14, 2013 11:41 AM

To: Amy Price

Subject: Re: Petition for Cancellation

Amy,

To clarify, do you also agree (i) that the discussions will be used only for settlement purposes, and (ii) that the parties' statements will not be used by either party in any administrative or legal proceeding of any type, now or in the future (e.g., opposition proceeding, district court action, etc.)?

Best,

Joe

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

Mailing Address:
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Minneapolis, MN 55447

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On Aug 14, 2013, at 10:07 AM, Amy Price wrote:

Joe,

I agree that all settlement discussions will be kept confidential.

Best,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Joseph Uradnik [<mailto:joe@iplawspot.com>]

Sent: Wednesday, August 14, 2013 10:54 AM

To: Amy Price

Subject: Re: Petition for Cancellation

Amy,

Related to the negotiation of any potential settlement, to help promote resolution of the dispute, will your client agree that all discussions are confidential, that the discussions will be used only for settlement purposes, and that the parties' statements will not be used by either party in any

administrative or legal proceeding of any type, now or in the future (e.g., opposition proceeding, district court action, etc.)?

Best,
Joe

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
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On Aug 13, 2013, at 10:37 AM, Amy Price wrote:

Joe,

Please see the attached.

Best,
Amy

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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From: Joseph A. Uradnik [<mailto:joe@mnlawspot.com>]

Sent: Friday, August 09, 2013 9:30 PM

To: Amy Price

Subject: Petition for Cancellation

See attached.

**JOSEPH A. URADNIK
URADNIK LAW FIRM PC**

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
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Minneapolis, MN 55447

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<LtrUradnik_08132013.pdf>

EXHIBIT K

Combined Declaration of Use and Incontestability under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	3484548
REGISTRATION DATE	08/12/2008
SERIAL NUMBER	77370588
MARK SECTION	
MARK	STEVE'S & ED'S
ATTORNEY SECTION (current)	
NAME	/Carl J. Spagnuolo/
FIRM NAME	MASTER SALES & MARKETING LLC
STREET	11381 PROSPERITY FARMS ROAD
CITY	PALM BEACH GARDENS
STATE	Florida
POSTAL CODE	33410
COUNTRY	United States
PHONE	561-625-6575
FAX	561-625-6572
EMAIL	trademarks@m spatents.com
DOCKET/REFERENCE NUMBER	3317.001
ATTORNEY SECTION (proposed)	
NAME	Carl J. Spagnuolo
FIRM NAME	McHale & Slavin, P.A.
STREET	2855 PGA Boulevard
CITY	PALM BEACH GARDENS
STATE	Florida

POSTAL CODE	33410-2910
COUNTRY	United States
PHONE	561-625-6575
FAX	561-625-6572
EMAIL	ustrademarks@mchaleslavin.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	3317U.000001
OTHER APPOINTED ATTORNEY	Michael A. Slavin, Brian Taillon, Edward F. McHale, Keith Campbell, David Zelner, Amy S. Price

CORRESPONDENCE SECTION (current)

FIRM NAME	MASTER SALES & MARKETING LLC
STREET	11381 PROSPERITY FARMS ROAD
CITY	PALM BEACH GARDENS
STATE	Florida
POSTAL CODE	33410
COUNTRY	United States
PHONE	561-625-6575
FAX	561-625-6572
EMAIL	trademarks@m spatents.com
DOCKET/REFERENCE NUMBER	3317.001

CORRESPONDENCE SECTION (proposed)

NAME	Carl J. Spagnuolo
FIRM NAME	McHale & Slavin, P.A.
STREET	2855 PGA Boulevard
CITY	PALM BEACH GARDENS
STATE	Florida
POSTAL CODE	33410-2910
COUNTRY	United States
PHONE	561-625-6575
FAX	561-625-6572
EMAIL	ustrademarks@mchaleslavin.com

AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	3317U.000001
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	030
GOODS OR SERVICES	SAUCES, SPICES AND RUBS, NAMELY, CHICKEN WING SAUCE, STEAK SAUCE, TERIYAKI SAUCE, CHILI SAUCE, BARBEQUE SAUCE AND HOT SAUCES; MUSTARD; KETCHUP; AND MARINADE
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\773\705\77370588\xml1\ 8150002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\773\705\77370588\xml1\ 8150003.JPG
SPECIMEN DESCRIPTION	photographs of actual goods in the product packaging with the trademark prominently displayed on the product packaging
OWNER SECTION (current)	
NAME	Master Sales & Marketing, LLC
STREET	11381 Prosperity Farms Road
CITY	Palm Beach Gardens
STATE	Florida
ZIP/POSTAL CODE	33410
COUNTRY	United States
PHONE	561-625-6575
FAX	561-625-6572
OWNER SECTION (proposed)	
NAME	Master Sales & Marketing, LLC
STREET	15 Surrey Lane
CITY	Springfield
STATE	New Jersey
ZIP/POSTAL CODE	07081
COUNTRY	United States
PHONE	561-625-6575

FAX	561-625-6572
LEGAL ENTITY SECTION (current)	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	New Jersey
LEGAL ENTITY SECTION (proposed)	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	New Jersey
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	300
TOTAL FEE PAID	300
SIGNATURE SECTION	
SIGNATURE	/Carl J. Spagnuolo/
SIGNATORY'S NAME	Carl J. Spagnuolo
SIGNATORY'S POSITION	Attorney of record, Florida bar member
DATE SIGNED	08/16/2013
SIGNATORY'S PHONE NUMBER	561-625-6575
PAYMENT METHOD	CC
FILING INFORMATION	
SUBMIT DATE	Fri Aug 16 16:40:25 EDT 2013
TEAS STAMP	USPTO/S08N15-50.192.160.5 0-20130816164025999590-34 84548-500aef0c7a715d3f4a8 21371eb76c5d446552511b5c4 db24e793779934babd922-CC- 3329-20130816162156301368

**Combined Declaration of Use and Incontestability under Sections 8 & 15
To the Commissioner for Trademarks:**

REGISTRATION NUMBER: 3484548

REGISTRATION DATE: 08/12/2008

MARK: STEVE'S & ED'S

The owner, Master Sales & Marketing, LLC, a limited liability company legally organized under the laws of New Jersey, having an address of

15 Surrey Lane
Springfield, New Jersey 07081
United States

is filing a Combined Declaration of Use and Incontestability under Sections 8 & 15.

For International Class 030, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class: SAUCES, SPICES AND RUBS, NAMELY, CHICKEN WING SAUCE, STEAK SAUCE, TERIYAKI SAUCE, CHILI SAUCE, BARBEQUE SAUCE AND HOT SAUCES; MUSTARD; KETCHUP; AND MARINADE; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one(or more) specimen(s) for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) photographs of actual goods in the product packaging with the trademark prominently displayed on the product packaging.

[Specimen File 1](#)

[Specimen File 2](#)

The registrant's current Attorney Information: /Carl J. Spagnuolo/ of MASTER SALES & MARKETING LLC

11381 PROSPERITY FARMS ROAD
PALM BEACH GARDENS, Florida (FL) 33410
United States

The docket/reference number is 3317.001.

The registrant's proposed Attorney Information: Carl J. Spagnuolo of McHale & Slavin, P.A.

2855 PGA Boulevard
PALM BEACH GARDENS, Florida (FL) 33410-2910
United States

The docket/reference number is 3317U.000001.

The Other Appointed Attorney(s): Michael A. Slavin, Brian Taillon, Edward F. McHale, Keith Campbell,

David Zelner, Amy S. Price.

The phone number is 561-625-6575.

The fax number is 561-625-6572.

The email address is ustrademarks@mchaleslavin.com.

The registrant's current Correspondence Information: of MASTER SALES & MARKETING LLC
11381 PROSPERITY FARMS ROAD
PALM BEACH GARDENS, Florida (FL) 33410
United States

The docket/reference number is 3317.001.

The registrant's proposed Correspondence Information: Carl J. Spagnuolo of McHale & Slavin, P.A.
2855 PGA Boulevard
PALM BEACH GARDENS, Florida (FL) 33410-2910
United States

The docket/reference number is 3317U.000001.

The phone number is 561-625-6575.

The fax number is 561-625-6572.

The email address is ustrademarks@mchaleslavin.com.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Carl J. Spagnuolo/ Date: 08/16/2013

Signatory's Name: Carl J. Spagnuolo

Signatory's Position: Attorney of record, Florida bar member

Signatory's Phone Number: 561-625-6575

Mailing Address (current):

MASTER SALES & MARKETING LLC
11381 PROSPERITY FARMS ROAD
PALM BEACH GARDENS, Florida 33410

Mailing Address (proposed):

McHale & Slavin, P.A.
2855 PGA Boulevard
PALM BEACH GARDENS, Florida 33410-2910

Serial Number: 77370588

Internet Transmission Date: Fri Aug 16 16:40:25 EDT 2013

TEAS Stamp: USPTO/S08N15-50.192.160.50-2013081616402

5999590-3484548-500aef0c7a715d3f4a821371

eb76c5d446552511b5c4db24e793779934babd92

2-CC-3329-20130816162156301368





ROUTING SHEET TO POST REGISTRATION (PRU)

Registration Number: 3484548



Serial Number: 77370588



RAM Sale Number: 3484548

RAM Accounting Date: 20130819

Total Fees: \$300

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20130816	\$100	1	1	\$100
§15 affidavit	7208	20130816	\$200	1	1	\$200

Physical Location: - UNKNOWN

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20130816







EXHIBIT L

From: Joseph Uradnik <joe@iplawspot.com>
Subject: Revised Settlement Proposal
Date: September 12, 2013 2:18:33 PM CDT
To: Amy Price <aprice@mchaleslavin.com>
Bcc: "Clio Maildrop TAST39-01001 Trademark Dispute re: STEVE'S PEPPER SAUCE" <e0cf9c685+matter1019196055@maildrop.goclio.com>, "Joseph A. Uradnik" <joe@iplawspot.com>



Dear Amy,

My client remains open to exploring settlement along the terms we previously proposed. As we had previously advised, however, if this matter moves to litigation, any settlement will necessitate a higher payment from your client for attorneys' fees. Thus, if your client is interested in further exploring settlement, they should do so now on the terms we previously proposed, modified as follows: (i) your client in addition agrees to promptly abandon its recently-filed section 15 affidavit (if it has not done so already), since it at best reflects clear error with respect to the status and timing of the pending cancellation proceeding; and (ii) payment of \$9700 (i.e., the amount adjusted downward to reflect the Trademark Office cost to re-file the section 15 affidavit).

I am happy to discuss any questions at your convenience. However, I suspect that it would be more efficient at this point for you to use the earlier draft we provided as a template and prepare for our review a revised form of settlement agreement that reflects the two changes above.

This email is sent, and this counteroffer related to settlement is made, on behalf of my client with express reservation of all rights and remedies.

Regards,
Joe

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com


Mailing Address:

URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447

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EXHIBIT M

From: "Carl Spagnuolo" <cspagnuolo@mchaleslavin.com> 
Subject: RE: Tastes Great, LLC v. Master Sales & Marketing, LLC; Cancellation No. 92057664; Our File No. 3317U.001
Date: October 15, 2013 12:38:46 PM CDT
To: "Joseph Uradnik" <joe@iplawspot.com>

1 Attachment, 34 KB

Ms. Price is no longer with our firm.
That is all the information I can give you.
Thank you,
Sincerely,
Carl Spagnuolo

Carl J. Spagnuolo, Partner
Trademark, Copyright and Entertainment Law
cspagnuolo@mchaleslavin.com



McHale & Slavin, P.A.
2855 PGA Blvd
Palm Beach Gardens, FL 33410
(561)625-6575 voice
(561)625-6572 fax

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From: Joseph Uradnik [mailto:joe@iplawspot.com]
Sent: Tuesday, October 15, 2013 12:09 PM
To: Carl Spagnuolo
Cc: ustrademarks@mchaleslavin.com
Subject: Re: Tastes Great, LLC v. Master Sales & Marketing, LLC; Cancellation No. 92057664; Our File No. 3317U.001

Carl,

My understanding is that Ms. Price has left your firm. Are you serving as counsel for Ms. Price? If not, please provide her contact information.

Best regards,
Joe

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

Mailing Address:
URADNIK LAW FIRM PC
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On Oct 15, 2013, at 8:33 AM, Carl Spagnuolo wrote:

Carl J. Spagnuolo
McHale & Slavin, P.A.
2855 PGA Blvd.
Palm Beach Gardens, FL 33410
561-625-6575

Carl J. Spagnuolo, Partner
Trademark, Copyright and Entertainment Law
cspagnuolo@mchaleslavin.com

<image001.png>

McHale & Slavin, P.A.
2855 PGA Blvd
Palm Beach Gardens, FL 33410
(561)625-6575 voice
(561)625-6572 fax

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From: Joseph Uradnik [<mailto:joe@iplawspot.com>]
Sent: Monday, October 14, 2013 2:39 PM
To: ustrademarks@mchaleslavin.com
Cc: cspagnuolo@mchaleslavin.com
Subject: Re: Tastes Great, LLC v. Master Sales & Marketing, LLC; Cancellation No. 92057664; Our File No. 3317U.001

To Whom It May Concern:

Kindly confirm current contact information for Ms. Price.

Thank you.

Best regards,
Joe

JOSEPH A. URADNIK
URADNIK LAW FIRM PC

(763) 432-5380 (office)
(763) 322-9797 (fax)
(612) 865-9449 (mobile)
joe@mnlawspot.com
joe@iplawspot.com

Mailing Address:
URADNIK LAW FIRM PC
P.O. Box 47624
Minneapolis, MN 55447

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this message in error, please delete it immediately and notify the sender. This message (including the typed name of the sender and any signature block) is not intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated in the message.

On Oct 10, 2013, at 10:15 AM, Amy Price wrote:

Joe:

In accordance with our agreement to provide service via E-mail, attached is Master Sales' Motion to Dismiss the Petition for Cancellation, filed today. In addition, the case is being provided in accordance with the Board's rules regarding unpublished opinions.

PLEASE TAKE NOTE: PLEASE DIRECT ALL FUTURE CORRESPONDENCE REGARDING THIS MATTER TO CARL SPAGNUOLO (cspagnuolo@mchaleslavin.com). After October 11, 2013, I will no longer be monitoring this email.

I will make the appropriate change in correspondence with the Board.

Please also make sure to always copy ustrademarks@mchaleslavin.com on all TTAB filings.

Sincerely,

McHALE & SLAVIN, P.A.

Amy S. Price

2855 PGA Boulevard

Palm Beach Gardens, Florida 33410

Tel.: (561) 625-6575

Fax: (561) 625-6572

E-mail: Aprice@McHaleSlavin.com

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EXHIBIT N

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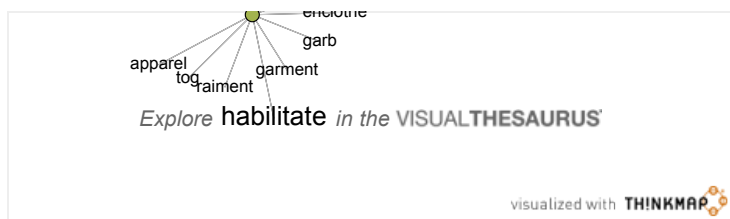
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Steve [steev] [steev] Show IPA

noun
a male given name, form of Steven or Stephen.

Relevant Questions



Bi-ko [bee-koh] Show IPA Dictionary.com Unabridged

noun
Stephen Bantu ("Steve") 1946–77, South African antiapartheid activist killed in police custody.

Carl-ton [kahrl-tuh n] Show IPA

- noun**
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 - a male given name.

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- This was an idea pitched by doug and **steve** earlier in the movie.
- Jack suspected **steve** had kidnapped his wife, and angrily confronted him on the ...
- Kayla and **steve** began to have an affair, unable to keep apart any longer.

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Matching Quote

"Male God: You've earned enough credits to get you into heaven.
Steve: Oh, thank God.
Male and Female Gods: You're welcome."

-Blake Edwards

MORE

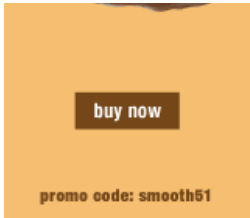




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1. **Stepnen micnaei** ("Steve") born 1936, U.S. composer.
2. **Wil-helm**  [vil-helm]  [Show IPA](#) , 1897–1957, Austrian psychoanalyst in the U.S.

Woz-ni-ak [woz-nee-ak]  [Show IPA](#)

noun

Stephen ("Steve") born 1950, U.S. computer engineer: cofounder of Apple Computer.


Dictionary.com Unabridged

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[Cite This Source](#) | [Link To Steve](#)


World English Dictionary

Collins

Biko ('bi:kəʊ) 


— **n**

Steven Bantu , known as *Steve* . 1946--77, Black South African civil rights leader: founder of the South African Students Organization. His death in police custody caused worldwide concern

Carlton ('kɑ:ltən) 

— **n**

a town in N central England, in S Nottinghamshire. Pop: 48 493 (2001)

Reich ¹ (raɪk, *German* raɪç) 

— **n**


- 1.the Holy Roman Empire (**First Reich**)
- 2.the Hohenzollern empire from 1871 to 1919 (**Second Reich**)
- 3.the Weimar Republic from 1919 to 1933
- 4.the Nazi dictatorship from 1933 to 1945 (**Third Reich**)

[German: kingdom]

Reich ² (raɪk, *German* raɪç) 

— **n**

- 1.**Steve** . born 1936, US composer, whose works are characterized by the repetition and modification of small rhythmic motifs. His works include *Drumming* (1971), *The Desert Music* (1984), and *City Life* (1995)
- 2.**Wilhelm** ('vɪlhɛlm). 1897--1957, Austrian psychologist, lived in the US. An ardent socialist and advocate of sexual freedom, he proclaimed a cosmic unity of all energy and built a machine (the orgone accumulator) to concentrate this energy on human beings. His books include *The Function of the Orgasm* (1927)

Wozniak ('wɒznɪæk) 

— **n**

Steve , full name *Stephan Gary Wozniak* . born 1950, US computer scientist and executive: co-founder (with Steve Jobs, 1976) of Apple Inc

Collins English Dictionary - Complete & Unabridged 10th Edition
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Publishers 1998, 2000, 2003, 2005, 2006, 2007, 2009

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EXHIBIT 0



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's¹

an ending used in writing to represent the possessive morpheme after most singular nouns, some plural nouns, especially those not ending in a letter or combination of letters representing an *s* or *z* sound, noun phrases, and noun substitutes, as in *man's*, *women's*, *baby's*, *James's*, *witness's*, (or *witness'*), *king of England's*, or *anyone's*.

Origin:

Middle English *-es*, Old English

's²

Dictionary.com Unabridged

1. contraction of *is*: *She's here*.
2. contraction of *does*: *What's he do for a living now?*
3. contraction of *has*: *He's just gone*.

Usage note

See [contraction](#).

's³

Archaic.
a contraction of *God's*, as in *'swounds*; *'sdeath*; *'sblood*.

's⁴

a contraction of *us*, as in *Let's go*.

Usage note

See [contraction](#).

's⁵

a contraction of *as*, as in *so's to get there on time*.

Dictionary.com Unabridged
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"S wonderful! 'S marvelous—
You should care for me!"

-Ira Gershwin

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EXHIBIT P

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,158,271

Registered Jun. 23, 1981

TRADEMARK
Principal Register



Steve's Ice Cream, Inc. (Massachusetts corporation)
191 Elm St.
Somerville, Mass. 02144

For: ICE CREAM FOR CONSUMPTION ON
OR OFF THE PREMISES, in CLASS 30 (U.S. Cl.
46).

First use Jun. 1, 1976; in commerce Aug. 1, 1976.

Applicant disclaims the words "Ice Cream" and
the representation of an ice cream cone apart from
the mark as shown.

The drawing is lined for the colors orange and
blue.

Ser. No. 203,439, filed Feb. 12, 1979.

BETH CHAPMAN, Primary Examiner

LISA N. KAUFMAN, Examiner

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,158,272

Registered Jun. 23, 1981

TRADEMARK
Principal Register

STEVE'S ICE CREAM

Steve's Ice Cream, Inc. (Massachusetts corporation)
191 Elm St.
Somerville, Mass. 02144

For: ICE CREAM FOR CONSUMPTION ON
OR OFF THE PREMISES, in CLASS 30 (U.S. Cl.
46).

First use Jun. 1, 1976; in commerce Aug. 1, 1976.
Applicant disclaims the words "Ice Cream" apart
from the mark as shown.

Ser. No. 203,440, filed Feb. 12, 1979.

BETH CHAPMAN, Primary Examiner

LISA N. KAUFMAN, Examiner

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,158,273

Registered Jun. 23, 1981

TRADEMARK
Principal Register

STEVE'S

Steve's Ice Cream, Inc. (Massachusetts corporation)
191 Elm St.
Somerville, Mass. 02144

For: ICE CREAM FOR CONSUMPTION ON
OR OFF THE PREMISES, in CLASS 30 (U.S. Cl.
46).

First use Jun. 1, 1976; in commerce Aug. 1, 1976.

Ser. No. 203,453, filed Feb. 12, 1979.

BETH CHAPMAN, Primary Examiner

LISA N. KAUFMAN, Examiner

Int. Cls.: 29 and 42

Prior U.S. Cls.: 46 and 100

United States Patent and Trademark Office

Reg. No. 1,287,136

Registered Jul. 24, 1984

**TRADEMARK
SERVICE MARK
Principal Register**

UNCLE STEVE'S

John Storgion (United States citizen)
8198 Colerain Ave.
Cincinnati, Ohio 45239

(U.S. Cl. 100).

First use Jan. 20, 1978; in commerce Jan. 20, 1978.

For: CHILI, MEAT, SALADS CONTAINING
MEATS, TOSSED GARDEN SALADS, MILK
AND CHOCOLATE MILK, ALL FOR CON-
SUMPTION ON OR OFF THE PREMISES, in
CLASS 29 (U.S. Cl. 46).

Ser. No. 290,617, filed Dec. 22, 1980.

First use Jan. 20, 1978; in commerce Jan. 20, 1978.
For: RESTAURANT SERVICES, in CLASS 42

JERRY L. PRICE, Examining Attorney

Int. Cl.: 37

Prior U.S. Cl.: 103

United States Patent and Trademark Office

Reg. No. 1,363,738

Registered Oct. 1, 1985

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S DETAILING

STEVE'S DETAILING, INC. (CALIFORNIA
CORPORATION)
1545 NEWPORT BOULEVARD
COSTA MESA, CA 92627

FOR: AUTOMOTIVE VEHICLE CLEANING,
WASHING AND WAXING SERVICES, IN
CLASS 37 (U.S. CL. 103).

FIRST USE 2-0-1973; IN COMMERCE
6-0-1984.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DETAILING", APART FROM
THE MARK AS SHOWN.

SER. NO. 527,856, FILED 3-20-1985.

MICHAEL A. SZOKE, EXAMINING ATTOR-
NEY

Int. Cl.: 37

Prior U.S. Cl.: 103

United States Patent and Trademark Office **Reg. No. 1,423,280**
Registered Dec. 30, 1986

**SERVICE MARK
PRINCIPAL REGISTER**

**STEVE'S
DETAILING**

STEVE'S DETAILING MANAGEMENT COR-
PORATION (CALIFORNIA CORPORATION)
1545 NEWPORT BLVD.
COSTA MESA, CA 92627

FOR: AUTOMOTIVE VEHICLE CLEANING,
WASHING AND WAXING, IN CLASS 37 (U.S.
CL. 103).

FIRST USE 9-0-1985; IN COMMERCE
9-0-1985.

OWNER OF U.S. REG. NO. 1,363,738.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DETAILING", APART FROM
THE MARK AS SHOWN.

SER. NO. 592,822, FILED 4-11-1986.

ELAINE PARTHEMOS, EXAMINING ATTOR-
NEY

Int. Cl.: 3

Prior U.S. Cl.: 52

United States Patent and Trademark Office

Reg. No. 1,432,651
Registered Mar. 17, 1987

TRADEMARK
PRINCIPAL REGISTER

STEVE'S
CAR CARE PRODUCTS

STEVE'S DETAILING MANAGEMENT COR-
PORATION (CALIFORNIA CORPORATION)
1545 NEWPORT BOULEVARD
COSTA MESA, CA 92627

FOR: AUTOMOTIVE VEHICLE CARE PREP-
ARATIONS, NAMELY, CLEANERS, POLISHES,
WAXES, AND PROTECTORANTS, IN CLASS 3
(U.S. CL. 52).

FIRST USE 6-0-1986; IN COMMERCE
6-0-1986.

OWNER OF U.S. REG. NO. 1,363,738.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "CAR CARE PRODUCTS",
APART FROM THE MARK AS SHOWN.

SER. NO. 610,522, FILED 7-21-1986.

HELEN ROBERTS WENDEL, EXAMINING AT-
TORNEY

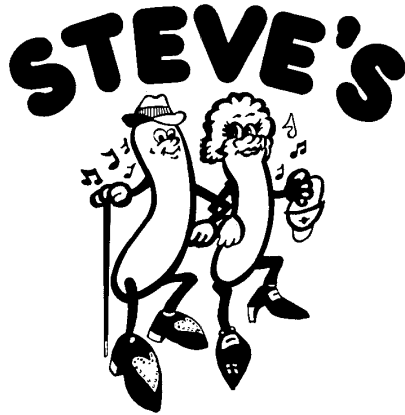
Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office
Corrected

Reg. No. 1,488,848
Registered May 17, 1988
OG Date Apr. 18, 1989

SERVICE MARK
PRINCIPAL REGISTER



STEVE'S FAMOUS HOT DOGS, INC.
(VIRGINIA CORPORATION)
P.O. BOX 1145
1200 ELECTRIC ROAD
SALEM, VA 24153, ASSIGNEE OF
STEVE'S FAMOUS HOT DOGS (VIR-
GINIA CORPORATION) SALEM, VA

THE MARK CONSISTS IN PART OF A
FANCIFUL REPRESENTATION OF A

MAN AND A WOMAN WITH HOT
DOGS AS THEIR BODIES.

FOR: RESTAURANT SERVICES, IN
CLASS 42 (U.S. CL. 100).

FIRST USE 9-1-1977; IN COMMERCE
9-1-1977.

SER. NO. 447,248, FILED 10-7-1983.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Apr. 18, 1989.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office Reg. No. 1,488,848
Registered May 17, 1988

**SERVICE MARK
PRINCIPAL REGISTER**



STEVE'S FAMOUS HOT DOGS (VIRGINIA
CORPORATION)
35 MAIN ST.
SALEM, VA 24153

FOR: RESTAURANT SERVICES, IN CLASS
42 (U.S. CL. 100).

FIRST USE 9-1-1977; IN COMMERCE
9-1-1977.

THE MARK CONSISTS IN PART OF A FAN-
CIFUL REPRESENTATION OF A MAN AND A
WOMAN WITH HOT DOGS AS THEIR BODIES.

SER. NO. 447,248, FILED 10-7-1983.

SALLY BETH BERGER, EXAMINING ATTOR-
NEY

Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,514,027

Registered Nov. 22, 1988

**SERVICE MARK
PRINCIPAL REGISTER**

Steve's 

STEVE'S HOMEMADE ICE CREAM INC. (NEW
JERSEY CORPORATION)
424 EAST JOHN STREET
LINDENHURST, NY 11757

FIRST USE 7-0-1973; IN COMMERCE
7-0-1973.
OWNER OF U.S. REG. NOS. 1,158,271,
1,158,272, AND 1,158,273.

SER. NO. 468,789, FILED 3-5-1984.

FOR: RETAIL ICE CREAM STORE SERV-
ICES, IN CLASS 42 (U.S. CL. 101).

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office **Reg. No. 1,514,028**
Registered Nov. 22, 1988

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S

STEVE'S HOMEMADE ICE CREAM INC. (NEW
JERSEY CORPORATION)
424 EAST JOHN STREET
LINDENHURST, NY 11757, ASSIGNEE OF
STEVE'S ICE CREAM, INC. (MASSACHU-
SETTS CORPORATION) NEW YORK, NY
10019

FOR: RETAIL ICE CREAM STORE SERV-
ICES, IN CLASS 42 (U.S. CL. 101).

FIRST USE 7-0-1973; IN COMMERCE
7-0-1973.

OWNER OF U.S. REG. NOS. 1,158,271,
1,158,272, AND 1,158,273.

SER. NO. 468,790, FILED 3-5-1984.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,621,525

Registered Nov. 6, 1990

**TRADEMARK
PRINCIPAL REGISTER**



STR SALES, INC. (ARIZONA CORPORATION)
P.O. BOX 2017
YUMA, AZ 85366

FIRST USE 12-15-1989; IN COMMERCE
12-15-1989.

SER. NO. 74-025,121, FILED 2-2-1990.

FOR: FRESH FRUIT AND FRESH VEGETA-
BLES, IN CLASS 31 (U.S. CL. 46).

CAROLYN GRAY, EXAMINING ATTORNEY

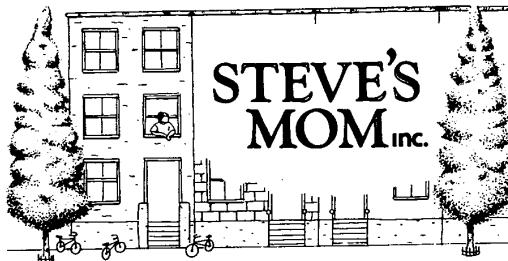
Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,631,799

United States Patent and Trademark Office Registered Jan. 15, 1991

**TRADEMARK
PRINCIPAL REGISTER**



STEVE'S MOM, INC. (NEW YORK CORPORATION)
2956 NOSTRAND AVENUE
BROOKLYN, NY 11229

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "INC.", APART FROM THE
MARK AS SHOWN.

FOR: BAKERY GOODS, IN CLASS 30 (U.S.
CL. 46).

SER. NO. 74-044,859, FILED 4-2-1990.

FIRST USE 4-15-1989; IN COMMERCE
7-15-1989.

TIMOTHY D. PECSENYE, EXAMINING AT-
TORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,043,023

United States Patent and Trademark Office

Registered Mar. 11, 1997

**SERVICE MARK
PRINCIPAL REGISTER**



STEVE'S DOUBLE V, INC. (NEW YORK COR-
PORATION)
194 BROAD STREET
GLENS FALLS, NY 12801

FIRST USE 6-1-1985; IN COMMERCE
6-1-1985.

SER. NO. 75-017,782, FILED 11-13-1995.

FOR: RESTAURANT, IN CLASS 42 (U.S. CLS.
100 AND 101).

FLORENTINA BLANDU, EXAMINING ATTOR-
NEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,259,097

United States Patent and Trademark Office

Registered July 6, 1999

**TRADEMARK
PRINCIPAL REGISTER**



NEUMANN, SAMUEL S. (UNITED STATES
CITIZEN)
2011 HARDING AVE
EVANSVILLE, IN 47711

MEAT OR VEGETABLES, IN CLASS 30 (U.S.
CL. 46).
FIRST USE 9-12-1997; IN COMMERCE
9-12-1997.

FOR: BARBECUE SAUCE TO BE USED ON,
AND WHILE COOKING ALL FORMS OF

SER. NO. 75-438,935, FILED 2-23-1998.
DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 37

Prior U.S. Cls.: 100, 103 and 106

Reg. No. 2,380,646

United States Patent and Trademark Office

Registered Aug. 29, 2000

**SERVICE MARK
PRINCIPAL REGISTER**



STEVE COX (MARYLAND SOLE PROPRIETOR-
SHIP), TA STEVE'S SUPER SHINE
740 ONTARIO STREET
HAVRE DE GRACE, MD 21078

FOR: DETAILING AND CLEANING OF VEHICLES
AND HOMES, IN CLASS 37 (U.S. CLS. 100, 103 AND
106).

FIRST USE 1-30-1996; IN COMMERCE 1-30-1996.
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT
TO USE "SUPER SHINE MOBILE DETAILING",
APART FROM THE MARK AS SHOWN.

SER. NO. 75-618,560, FILED 1-19-1999.

LESLIE RICHARDS, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,389,966

Registered Sep. 26, 2000

**TRADEMARK
PRINCIPAL REGISTER**

STEVE'S CHEESE

STEVE'S CHEESE, INC. (WISCONSIN CORPORATION)
5810 COUNTY ROAD NN
DENMARK, WI 542088730

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT
TO USE "CHEESE", APART FROM THE MARK AS
SHOWN.

FOR: CHEESES, IN CLASS 29 (U.S. CL. 46).
FIRST USE 0-0-1990; IN COMMERCE 0-0-1990.

SER. NO. 75-846,186, FILED 11-10-1999.

YSA DEJESUS, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,437,060

Registered Mar. 20, 2001

**TRADEMARK
PRINCIPAL REGISTER**

STEVE'S REAL FOOD

STEVE'S REAL FOOD, INC. (OREGON COR-
PORATION)
1848 PEARL STREET
EUGENE, OR 97401

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "REAL FOOD" , APART FROM
THE MARK AS SHOWN.

FOR: PET FOOD, IN CLASS 31 (U.S. CLS. 1 AND
46).

SER. NO. 76-011,283, FILED 3-27-2000.

FIRST USE 3-0-1999; IN COMMERCE 3-0-1999.

CAROL SPILS, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,527,660

Registered Jan. 8, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S PRINCE OF STEAKS

ILIESCU, STEVEN A. (UNITED STATES CITI-
ZEN)
7200 BUSTLETON AVE
PHILADELPHIA, PA 19149

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "STEAKS", APART FROM THE
MARK AS SHOWN.

FOR: RESTAURANT SERVICES, IN CLASS 42
(U.S. CLS. 100 AND 101).

SER. NO. 78-062,642, FILED 5-9-2001.

FIRST USE 1-17-1981; IN COMMERCE 1-17-1981.

SUELLEN HICKEY, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,599,555

Registered July 23, 2002

United States Patent and Trademark Office

**TRADEMARK
PRINCIPAL REGISTER**

"STEVE'S" STEVIA

SAMUDRA CORPORATION (CALIFORNIA COR-
PORATION)
2118 WILSHIRE BLVD.
SUITE 798
SANTA MONICA, CA 90403

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "STEVIA", APART FROM THE
MARK AS SHOWN.

FOR: CANDY, CHEWING GUM, AND BUBBLE
GUM, ALL CONTAINING STEVIA, IN CLASS 30
(U.S. CL. 46).

SN 78-035,305, FILED 11-15-2000.

FIRST USE 1-2-2002; IN COMMERCE 1-2-2002.

CHARLES JOYNER, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,602,435

Registered July 30, 2002

**TRADEMARK
PRINCIPAL REGISTER**

CAPTAIN STEVE'S

PROGLER, STEVEN B. (UNITED STATES CITI-
ZEN)
1601 S. GARFIELD ROAD
AUBURN, MI 48611

FIRST USE 12-19-2000; IN COMMERCE 12-19-2000.

SN 76-150,499, FILED 10-19-2000.

FOR: SEASONED COATING FOR FISH, POUL-
TRY, MEAT AND VEGETABLES, IN CLASS 30 (U.S.
CL. 46).

LINDA ORNDORFF, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,935,002

Registered Mar. 22, 2005

**TRADEMARK
PRINCIPAL REGISTER**

**STEVE'S SMOOTH
FRENCH**

SANTA CRUZ COFFEE ROASTING COMPANY,
THE (PARTNERSHIP)
331 LOCUST STREET
WATSONVILLE, CA 95076

FOR: COFFEE, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-30-1980; IN COMMERCE 9-30-1980.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "FRENCH", APART FROM THE
MARK AS SHOWN.

THE NAME STEVE DOES NOT IDENTIFY A
PARTICULAR LIVING INDIVIDUAL.

SER. NO. 78-379,749, FILED 3-5-2004.

JENNIFER MARTIN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,061,129

Registered Feb. 21, 2006

**TRADEMARK
PRINCIPAL REGISTER**

**STEVE'S SWEET
CHILI SEASONING**

REED, STEVEN J. (UNITED STATES INDIVIDUAL)
1852 COLFAX STREET
BLAIR, NE 68008

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE SWEET CHILI SEASONING, APART FROM THE MARK AS SHOWN.

FOR: CHILI SEASONING, IN CLASS 30 (U.S. CL. 46).

SN 78-402,663, FILED 4-15-2004.

FIRST USE 11-19-2003; IN COMMERCE 11-19-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

CIMMERIAN COLEMAN, EXAMINING ATTORNEY

Int. Cls.: 16 and 41

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 50, 100, 101 and 107

Reg. No. 3,150,627

United States Patent and Trademark Office

Registered Oct. 3, 2006

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

**Steve's Creations
- from Soil to
Skillet**

LUTTON, CHERI (UNITED STATES INDIVIDUAL)
10921 LYNNE AVE.
LAFAYETTE, CO 80026 AND
LUTTON, STEVE (UNITED STATES INDIVIDUAL)
10921 LYNNE AVE.
LAFAYETTE, CO 80026

FOR: PRINTED PRODUCTS, NAMELY, PRODUCT GUIDES FEATURING COOKING, AND HOME AND GARDENING PRODUCTS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 6-20-2003; IN COMMERCE 5-27-2004.

FOR: PUBLISHING AND DISTRIBUTION OF BOOKS, REVIEWS, AND OTHER PRINTED MATTER AS WELL AS RELATED ELECTRONIC CAR-

RIERS IN THE FIELD OF COOKING, AND HOME AND GARDENING INTEREST; A CONTINUING VARIETY SHOW BROADCAST OVER TELEVISION, SATELLITE, AUDIO AND VIDEO MEDIA FEATURING COOKING, AND HOME AND GARDENING TOPICS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 6-20-2003; IN COMMERCE 5-27-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-595,800, FILED 3-27-2005.

KATHRYN COWARD, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

Reg. No. 3,190,647

United States Patent and Trademark Office

Registered Jan. 2, 2007

SERVICE MARK
PRINCIPAL REGISTER



THE PIZZA FACTORY, INC. (FLORIDA CORPORATION)
9180 GLADES ROAD
BOCA RATON, FL 33434

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WOOD FIRED PIZZA" , APART FROM THE MARK AS SHOWN.

FOR: RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

SER. NO. 76-644,541, FILED 8-10-2005.

FIRST USE 5-0-2000; IN COMMERCE 5-0-2000.

MARK RADEMACHER, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,238,999

Registered May 8, 2007

SERVICE MARK
PRINCIPAL REGISTER



ILIESCU, STEVEN A. (UNITED STATES INDIVIDUAL)
9819 LAYTON RD
PHILADELPHIA, PA 19115

FOR: FAST FOOD AND NON-STOP RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1980; IN COMMERCE 1-15-1980.

OWNER OF U.S. REG. NO. 2,527,660.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEAKS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-713,318, FILED 9-15-2005.

GINA FINK, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,239,000

Registered May 8, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S STEAKS

ILIESCU, STEVEN A. (UNITED STATES INDIVIDUAL)
9819 LAYTON RD
PHILADELPHIA, PA 19115

FOR: FAST FOOD AND NON-STOP RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1979; IN COMMERCE 2-1-1980.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,527,660.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEAKS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-713,324, FILED S.R. 9-15-2005 AM. P.R. 12-20-2006.

SONYA STEPHENS, EXAMINING ATTORNEY

Int. Cls.: 25 and 43

Prior U.S. Cls.: 22, 39, 100 and 101

United States Patent and Trademark Office

Reg. No. 3,279,021

Registered Aug. 14, 2007

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

SODA STEVE'S

SODA STEVE'S IP HOLDINGS, LLC (OKLAHOMA LTD LIAB CO)
ROUTE 1, BOX 194
GORE, OK 74435

FOR: CLOTHING, NAMELY, T-SHIRTS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-5-2006; IN COMMERCE 4-5-2006.

FOR: RESTAURANT SERVICES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 5-20-2006; IN COMMERCE 5-20-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-029,311, FILED 10-25-2006.

WILLIAM P. SHANAHAN, EXAMINING ATTORNEY

Int. Cls.: 25 and 43

Prior U.S. Cls.: 22, 39, 100 and 101

United States Patent and Trademark Office

Reg. No. 3,279,192

Registered Aug. 14, 2007

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



SODA STEVE'S IP HOLDINGS, LLC (OKLAHOMA LTD LIAB CO)

ROUTE 1, BOX 194

GORE, OK 74435

FOR: CLOTHING, NAMELY, T-SHIRTS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-5-2006; IN COMMERCE 4-5-2006.

FOR: RESTAURANT SERVICES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 5-20-2006; IN COMMERCE 5-20-2006.

SER. NO. 77-046,831, FILED 11-17-2006.

WILLIAM P. SHANAHAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,318,227

Registered Oct. 23, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S SNAPPIN' DOGS

CARRIED AWAY, LLC (COLORADO LIMITED
LIABILITY COMPANY)
331 GRAPE STREET
DENVER, CO 80220

FOR: RESTAURANT SERVICES; FAST-FOOD
RESTAURANTS; MOBILE RESTAURANT SERVI-
CES, NAMELY, RESTAURANT SERVICES PROVID-
ED VIA MOBILE TRUCKS AND CARTS, IN CLASS
43 (U.S. CLS. 100 AND 101).

FIRST USE 5-20-2004; IN COMMERCE 5-20-2004.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DOGS", APART FROM THE MARK
AS SHOWN.

THE NAME(S), PORTRAIT(S), AND/OR SIGNA-
TURE(S) SHOWN IN THE MARK IDENTIFIES
STEVEN BALLAS, JR. , WHOSE CONSENT(S) TO
REGISTER IS SUBMITTED.

SER. NO. 78-948,174, FILED 8-9-2006.

JUSTINE D. PARKER, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

Reg. No. 3,345,351

United States Patent and Trademark Office

Registered Nov. 27, 2007

**SERVICE MARK
PRINCIPAL REGISTER**



STEVE'S PIZZA FRANCHISE CORPORATION
(CALIFORNIA CORPORATION)
C/O PASSPORT RESTAURANTS, INC.
5950 HAZELTINE NATIONAL DRIVE, STE 290
ORLANDO, FL 32822

THE COLORS RED, YELLOW, BLACK AND
WHITE ARE CLAIMED AS A FEATURE OF THE
MARK.

FOR: RESTAURANT SERVICES, IN CLASS 43
(U.S. CLS. 100 AND 101).

FIRST USE 5-1-2006; IN COMMERCE 5-1-2006.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "PIZZA" AND "PIZZA" AND "EST.
1978", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A LOGO IN RED,
YELLOW, AND BLACK IN THE SHAPE OF A SLICE
OF PIZZA WITH THE WORDS STEVE'S PIZZA SP IN
RED, THE WORDS PIZZA AND EST. 1978 IN WHITE,
AND THE WORDS STEVE'S PIZZA IS IN RED AND
WHITE.

SN 78-659,309, FILED 6-27-2005.

THE NAME IN THE MARK IDENTIFIES A LIV-
ING INDIVIDUAL WHOSE CONSENT IS OF RE-
CORD.

NAAKWAMA ANKRAH, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,368,977

Registered Jan. 15, 2008

SERVICE MARK
PRINCIPAL REGISTER



BIG GUYS LLC (RHODE ISLAND LTD LIAB CO)
23 FARWELL STREET
NEWTONVILLE, MA 02460

FOR: RESTAURANT AND BAR SERVICES, IN
CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-15-2006; IN COMMERCE 3-23-2007.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "STEAKHOUSE" , APART FROM
THE MARK AS SHOWN.

THE MARK CONSISTS OF TWO LINES OF
STYLIZED TEXT AND DESIGN ELEMENTS,
WHICH INCLUDE THE WORDS "FRED", "STEVE'S"
AND "STEAKHOUSE"; THE NUMBER "76" WITHIN
THE "F" IN "FRED"; THE NUMBER "99" WITHIN
THE "S" IN "STEVE'S"; THE "&" BETWEEN THE
WORDS "FRED" AND "STEVE'S"; AND THE DOU-
BLE STYLIZED UNDERLINES BENEATH THE
WORDS "FRED" AND "STEVE'S."

SER. NO. 77-185,708, FILED 5-21-2007.

SHAUNIA CARLYLE, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,377,427

Registered Feb. 5, 2008

SERVICE MARK
PRINCIPAL REGISTER



SWETLOW, HEATHER (UNITED STATES INDIVIDUAL)

1337 CONNECTICUT AVENUE NW, 2ND FLOOR
WASHINGTON, DC 20036

FOR: RESTAURANT AND BAR SERVICES, IN
CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-1-2005; IN COMMERCE 10-1-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BAR ROOM", APART FROM THE
MARK AS SHOWN.

THE MARK CONSISTS OF STEVE'S BAR ROOM.

SER. NO. 77-138,443, FILED 3-23-2007.

AISHA SALEM, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,476,226

Registered July 29, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

STEVE'S FAMOUS DINER

CHRISTOMELI, INC. (FLORIDA CORPORATION)

1584 SOUTH NOVA ROAD

DAYTONA BEACH, FL 32114

FOR: RESTAURANT SERVICES, IN CLASS 43
(U.S. CLS. 100 AND 101).

FIRST USE 8-28-1986; IN COMMERCE 8-28-1986.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FAMOUS DINER", APART FROM THE MARK AS SHOWN.

SER. NO. 77-357,871, FILED 12-21-2007.

ELI HELLMAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,479,743

Registered Aug. 5, 2008

SERVICE MARK
PRINCIPAL REGISTER



CARRIED AWAY, LLC (COLORADO LTD LIAB
CO)
331 GRAPE STREET
DENVER, CO 80220

FOR: FAST FOOD AND NON-STOP RESTAU-
RANT SERVICES; RESTAURANT SERVICES;
TAKE-OUT RESTAURANT SERVICES; MOBILE
CAFE SERVICES FOR PROVIDING FOOD AND
DRINK, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 5-20-2004; IN COMMERCE 5-20-2004.

OWNER OF U.S. REG. NO. 3,318,227.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DOGS", APART FROM THE MARK
AS SHOWN.

THE NAME IN THE MARK IDENTIFIES "STE-
VEN BALLAS, JR.", WHOSE CONSENT IS OF RE-
CORD.

THE COLOR(S) RED, BLUE, YELLOW, BROWN
AND GREEN IS/ARE CLAIMED AS A FEATURE OF
THE MARK.

THE MARK CONSISTS OF THE WORD "STEVE'S"
OVERLAYED OVER THE TOP PORTION OF A
DIAMOND ORIENTED SQUARE AND EXTENDS
BEYOND THE BORDERS OF THE DIAMOND ON
BOTH THE RIGHT AND LEFT SIDES. A HOT DOG
IS IN THE MIDDLE OF THE DIAMOND CONSIST-
ING OF A BUN, HOTDOG, WITH TRI-COLORED
CONDIMENTS COVERING THE TOP OF THE HOT-
DOG. THE WORDS "SNAPPIN' DOGS" ARE OVER-
LAYED IN A HORIZONTAL BANNER OVER THE
BOTTOM OF THE HOTDOG BUN AT THE BOTTOM
OF THE DIAMOND ORIENTED SQUARE. THE
BANNER IS ALSO OVERLAID OVER A 3-D RIBBON
EDGE THAT EXTENDS OVER THE CORNERS OF
THE DIAMOND SHAPED SQUARE AND HAS V-
SHAPED CUT-OUT ON THE HORIZONTALLY
EXTENDED EDGES. THE DIAMOND HAS A DARK
MIDDLE WITH A LIGHTER NARROW BORDER
ALONG THE OUTER EDGE.

SER. NO. 77-335,655, FILED 11-21-2007.

HEATHER SAPP, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,485,443

United States Patent and Trademark Office

Registered Aug. 12, 2008

**TRADEMARK
PRINCIPAL REGISTER**

DR. STEVE'S

FEMACEUTICALS, LLC (NEW YORK LIMITED
LIABILITY COMPANY)
2071 BOSTON POST ROAD
LARCHMONT, NY 10538

FOR: MEDICAL DEVICES, NAMELY, BOTH
PADS AND TAMPONS, FOR USE IN TREATING
VAGINAL AND VULVAR TISSUE IRRITATION,
PADS FOR TREATING BREAST AND NIPPLE IR-
RITATION IN NURSING MOTHERS, PADS FOR
USE IN TREATMENT OF INFANT DIAPER RASH
AND ADULT INCONTINENCE RASH, PADS FOR
PERI-ANAL USE IN TREATMENT OF HEMOR-

RHOIDAL IRRITATION, IN CLASS 5 (U.S. CLS. 6,
18, 44, 46, 51 AND 52).

FIRST USE 5-0-2008; IN COMMERCE 5-0-2008.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SN 76-670,595, FILED 12-20-2006.

BILL DAWE, EXAMINING ATTORNEY

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38, and 50

United States Patent and Trademark Office

Reg. No. 3,623,569

Registered May 19, 2009

TRADEMARK
PRINCIPAL REGISTER



MUNSEY, STEVE (UNITED STATES INDIVIDUAL)
P.O. BOX 1268
NORTH TAZEWELL, VA 24630

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAIT", APART FROM THE MARK AS SHOWN.

FOR: FISHING LURES; FISH ATTRACTANTS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

SN 77-191,152, FILED 5-25-2007.

FIRST USE 2-9-2009; IN COMMERCE 2-9-2009.

JOHN KELLY, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

BOBBY & STEVE'S AUTO WORLD

Reg. No. 3,728,001 BOBBY & STEVE'S HOLDINGS, LLC (MINNESOTA LIMITED LIABILITY COMPANY)
Registered Dec. 22, 2009 7920 FRANCE AVENUE SOUTH
BLOOMINGTON, MN 55435

Int. Cls.: 35, 37, 39 and 43 FOR: RETAIL STORE SERVICES FEATURING CONVENIENCE STORE ITEMS AND GASOLINE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-1-1996; IN COMMERCE 10-1-1996.

**SERVICE MARK
PRINCIPAL REGISTER**

FOR: AUTOMOBILE CLEANING AND CAR WASHING; AUTOMOTIVE MAINTENANCE AND REPAIR; REPAIR OF SMALL ENGINES, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 10-1-1996; IN COMMERCE 10-1-1996.

FOR: EMERGENCY AUTO OR TRUCK TOWING; VEHICLE TOWING, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 10-1-1996; IN COMMERCE 10-1-1996.

FOR: RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-1-1996; IN COMMERCE 10-1-1996.

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NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "AUTO", APART FROM THE MARK AS SHOWN.

SER. NO. 77-742,837, FILED 5-22-2009.

LYDIA BELZER, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Dr. Steve's

Reg. No. 3,852,039

SNODGRASS, STEVEN L. (UNITED STATES INDIVIDUAL)
112 BENT CREEK CT

Registered Sep. 28, 2010

BOWLING GREEN, KY 42103

Int. Cl.: 29

FOR: HIGH PROTEIN, LOW CARBOHYDRATE SOY BASED SNACK FOODS, IN CLASS 29 (U.S. CL. 46).

TRADEMARK

FIRST USE 6-0-2007; IN COMMERCE 6-0-2007.

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SER. NO. 77-502,785, FILED 6-19-2008.

KAPIL BHANOT, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MAX & STEVE'S

Reg. No. 4,012,809

Registered Aug. 16, 2011

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

PHILLIPS FOODS, INC. (MARYLAND CORPORATION)
1215 E. FORT AVENUE
BALTIMORE, MD 21230

FOR: DIPS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 11-25-2008; IN COMMERCE 11-25-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-518,311, FILED 7-9-2008.

JUDITH HELFMAN, EXAMINING ATTORNEY



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STEVE'S

Reg. No. 4,084,176

Registered Jan. 10, 2012

Int. Cls.: 30, 35, and 43

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

THE FRESH ICE CREAM COMPANY LLC (DELAWARE LIMITED LIABILITY COMPANY)
1337-2 LINCOLN AVENUE
HOLBROOK, NY 11741

FOR: ICE CREAMS, ICES, FRUIT ICES, ICE CREAM CONES, ICE CREAM CAKES, ICE CREAM DRINKS, ICE CREAM SANDWICHES, ICE CREAM SUNDAES, FROZEN YOGURTS, SORBETS, FREEZER POPS, TOPPING SYRUPS, FLAVORING SYRUPS, CANDIES FOR TOPPING, SPRINKLES FOR TOPPING, CHOCOLATE FOR TOPPING, MILK SHAKES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-31-2009; IN COMMERCE 3-31-2009.

FOR: ICE CREAM SHOP SERVICES; FROZEN CONFECTIONS RETAIL STORE SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 3-31-2009; IN COMMERCE 3-31-2009.

FOR: RESTAURANT SERVICES FEATURING ICE CREAM; RESTAURANT SERVICES FEATURING FROZEN CONFECTIONS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 3-31-2009; IN COMMERCE 3-31-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-409,096, FILED 2-28-2008.

MARLENE BELL, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

STEVE'S FROZEN CHILLERS

Reg. No. 4,235,629

Registered Nov. 6, 2012

Int. Cl.: 32

TRADEMARK

PRINCIPAL REGISTER

STEVE'S FROZEN CHILLERS, INC. (FLORIDA CORPORATION)

F-14

2950 NW COMMERCE PARK DR
BOYNTON BEACH, FL 33426

FOR: FROZEN FRUIT BEVERAGES, FROZEN FRUIT-BASED BEVERAGES, FRUIT BEVERAGES, FRUIT BEVERAGES, FRUIT DRINKS, FRUIT JUICES, FRUIT FLAVORED DRINKS, FRUIT CONCENTRATES AND PUREES USED AS INGREDIENTS IN BEVERAGES, FRUIT FLAVORED BEVERAGES, HERBAL JUICES, MIXED FRUIT JUICE, NON-ALCOHOLIC BEVERAGES CONTAINING FRUIT JUICES, NON-ALCOHOLIC COCKTAIL MIXES, NON-ALCOHOLIC COCKTAIL BASES, NON-ALCOHOLIC COCKTAILS, NAMELY, MOCKTAILS, NON-ALCOHOLIC FRUIT EXTRACTS USED IN THE PREPARATION OF BEVERAGES, NON-ALCOHOLIC FRUIT JUICE BEVERAGES, NON-CARBONATED, NON-ALCOHOLIC FROZEN FLAVORED BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, NAMELY, FRUIT DRINKS, NON-ALCOHOLIC PUNCH, SHERBERT BEVERAGES, SMOOTHIE BEVERAGES, SOFT DRINKS, SORBETS IN THE FORM OF BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 1-31-2001; IN COMMERCE 1-31-2001.

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SER. NO. 77-744,779, FILED 5-26-2009.

KIMBERLY FRYE, EXAMINING ATTORNEY



David J. Kyfos

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STEVE'S FRENCH FRY FONDUE

Reg. No. 4,280,339

STEVEN A. ILIESCU (UNITED STATES INDIVIDUAL)
7200 BUSTLETON AVE.

Registered Jan. 22, 2013

PHILADELPHIA, PA 19149

Int. Cl.: 29

FOR: FRENCH FRIED POTATOES, IN CLASS 29 (U.S. CL. 46).

TRADEMARK

FIRST USE 4-17-2010; IN COMMERCE 4-17-2010.

PRINCIPAL REGISTER

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Papa Steve's No Junk Protein Bars

Reg. No. 4,337,682

DIEBOLD, STEVEN (UNITED STATES INDIVIDUAL)
9042 HUBBARD ST
CULVER CITY, CA 90232

Registered May 21, 2013

Int. Cl.: 5

FOR: DIET FOOD AND PROTEIN BASED SUPPLEMENT PRODUCTS BASED ON ANIMAL NUTRIENTS, NAMELY, PROTEIN BASED, NUTRIENT-DENSE SNACK BARS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

TRADEMARK

FIRST USE 11-2-2010; IN COMMERCE 2-5-2011.

PRINCIPAL REGISTER

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SER. NO. 85-690,506, FILED 7-30-2012.

JASON TURNER, EXAMINING ATTORNEY



Sean Street Lee

Acting Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

STEVE'S ICE CREAM

Reg. No. 4,372,734

Registered July 23, 2013

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

THE FRESH ICE CREAM COMPANY LLC (DELAWARE LIMITED LIABILITY COMPANY)
1337-2 LINCOLN AVENUE
HOLBROOK, NY 11741

FOR: ICE CREAMS, ICE CREAM CONES, ICE CREAM CAKES, ICE CREAM SANDWICHES,
ICE CREAM SUNDAES, FROZEN YOGURTS, SORBETS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 6-0-2008; IN COMMERCE 6-0-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ICE CREAM", APART FROM THE MARK AS SHOWN.

SN 77-409,108, FILED 2-28-2008.


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Acting Director of the United States Patent and Trademark Office

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en.wikipedia.org/wiki/Steve_Jobs

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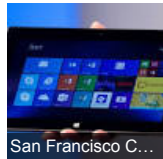
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Entrepreneur

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Wired - Jul 2012

Soon after **Steve** Jobs returned to Apple as CEO in 1997, he decided that a shipping company wasn't delivering spare parts fast enough. The shipper said it couldn't do better, ...



[The Tweaker](#)

The New Yorker - Nov 2011

Not long after **Steve** Jobs got married, in 1991, he moved with his wife to a nineteen-thirties, Cotswolds-style house in old Palo Alto. Jobs always found it difficult to furnish the ...



[The Lost Steve Jobs Tapes | Fast Company ...](#)

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A treasure trove of unearthed interviews conducted by the writer who knew him best reveals how Jobs's ultimate success at Apple can be traced directly...

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2001	113
2000	108
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ED50
Pharmacology .
 effective dose for 50 percent of the group; the amount of a drug that is therapeutic in 50 percent of the persons or animals in [which](#) it is tested.

-ed¹
 a [suffix](#) forming the past tense of weak [verbs](#): *he crossed the river.*

Origin:
 Old English *-de, -ede, -ode, -ade*; orig. disputed

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-John Ashbery



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-ed²

a suffix forming the past participle of weak verbs (*he had crossed the river*), and of participial **adjectives** indicating a condition or quality resulting from the action of the **verb** (*inflated balloons*).

Origin:

Old English *-ed, -od, -ad*; orig. disputed

-ed³

a suffix forming adjectives from **nouns**: *bearded*; *monied*; *tender-hearted*.

Origin:

Middle English; Old English *-ede*

ed.

1. edited.
2. **plural eds.** edition.
3. **plural eds.** editor.
4. education.

E.D.

1. Eastern Department.
2. election district.
3. ex dividend.
4. executive director.

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ed.

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- 1.edited
- 2.edition
- 3.editor

-ed¹

— **suffix**

forming the past tense of most English verbs

[Old English *-de, -ede, -ode, -ade*]

-ed²

— **suffix**

forming the past participle of most English verbs

[Old English *-ed, -od, -ad*]

-ed³

— **suffix forming adjectives**

possessing or having the characteristics of: *salaried*; *red-blooded*

[Old English *-ede*]

Collins English Dictionary - Complete & Unabridged 10th Edition
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Word Origin & History

Etymonline

-ed

pp. suffix of weak verbs, from O.E. *-ed, -ad, -od* (leveled to *-ed* in M.E.), from P.Gmc. **-do-*, from PIE **-to-* (cf. Gk. *-tos*, L. *-tus*). Originally fully pronounced, as still in *beloved* (which, with *blessed*, *accursed*, and a few others retains the full pronunciation through liturgical readings). In 16c.-18c.



Online Etymology Dictionary, © 2010 Douglas Harper
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Medical Dictionary*American Heritage***ED** *abbr.*
effective dose

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Slang Dictionary**ed**

n. "ed is the standard text editor." Line taken from original the [Unix](#) manual page on ed, an ancient line-oriented editor that is by now used only by a few [Real Programmers](#), and even then only for batch operations. The original line is sometimes uttered near the beginning of an emacs vs. vi holy war on [Usenet](#), with the (vain) hope to quench the discussion before it really takes off. Often followed by a standard text describing the many virtues of ed (such as the small memory [footprint](#) on a Timex Sinclair, and the consistent (because nearly non-existent) user interface).

Jargon
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Computing Dictionary*FOLDOC***ed definition****tool, text**

(editor) [Unix's line editor](#). Ed is rarely used by humans since even [vi](#) is better.
[Unix manual page](#): ed(1).
 (1999-03-01)

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Abbreviations & Acronyms*American Heritage***ed**
education

ED
 electrical damage
 erectile dysfunction
 extensive disease

ed.
 edited by
 edition
 editor
 education

E.D.
 election district
 emergency department

ED50
 median effective dose

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Bible Dictionary*Easton***Ed definition**

witness, a word not found in the original Hebrew, nor in the LXX. and Vulgate, but added by the translators in the Authorized Version, also in the Revised Version, of Josh. 22:34. The words are literally rendered: "And the children of Reuben and the children of Gad named the altar. It is a witness between us that Jehovah is God." This great altar stood probably on the east side of the Jordan, in the land of Gilead, "over against the land of Canaan." After the division of the Promised Land, the tribes of Reuben and Gad and the half-tribe of Manasseh, on returning to their own settlements on the east of Jordan (Josh. 22:1-6), erected a great altar, which they affirmed, in answer to the challenge of the other tribes, was not for sacrifice, but only as a witness ('Ed) or testimony to future generations that they still retained the same interest in the nation as the other tribes.

Easton's 1897 Bible Dictionary
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Ed (TV Series 2000–2004) - IMDb

www.imdb.com/title/tt0247091/

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Created by Jon Beckerman, Rob Burnett. With Tom Cavanagh, Julie Bowen, Josh Randall, Jana Marie Hupp. **Ed** Stevens is a contracts lawyer at a high-profile ...

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Our first product, 'Steve's & Ed's' Hot Dog Chili Sauce was created in 1972. Our line was expanded by adding hot sauces, wing sauces, salsas, steak sauce, sloppy joe, vegetarian beans, & beans and franks.

Steve's & Ed's Hot Sauces, Wing Sauces, and Steak Sauce are packed in a SQF 2000 level facility, which recognizes superior quality and safety. The SQF Certification Program is one of the few programs endorsed by the Global Food Safety Initiative (GFSI) for production, manufacturing, storage, and distribution. Each batch of Steve's and Ed's products are tested for total solids, pH, acidity, and viscosity.

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New Jersey 973.912.9312

EXHIBIT T

Since 1972



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With over 75 years experience in the Food Industry, Ed & Steve, a father and son team bring you the finest quality of products under the Steve's & Ed's label.



Hot Sauces



Wing Sauces



Other Products

Salsas Hot Dog Chili Sauce
Steak Sauce Vegetarian Beans



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EXHIBIT U

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,484,548

Registered Aug. 12, 2008

**TRADEMARK
PRINCIPAL REGISTER**

STEVE'S & ED'S

MASTER SALES & MARKETING, LLC (NEW
JERSEY LTD LIAB CO)
11381 PROSPERITY FARMS ROAD
PALM BEACH GARDENS, FL 33410

FOR: SAUCES, SPICES AND RUBS, NAMELY,
CHICKEN WING SAUCE, STEAK SAUCE, TERIYA-
KI SAUCE, CHILI SAUCE, BARBEQUE SAUCE AND
HOT SAUCES; MUSTARD; KETCHUP; AND MAR-
INADE, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-20-1992; IN COMMERCE 3-20-1992.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-370,588, FILED 1-14-2008.

GEORGE LORENZO, EXAMINING ATTORNEY