**To:** Christiane Voisin (briancrewslaw@gmail.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86246330 - JOIE DE VEGAN - N/A

**Sent:** 2/3/2015 6:48:59 PM

Sent As: ECOM113@USPTO.GOV

**Attachments:** <u>Attachment - 1</u>

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# UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO) OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86246330	
MARK: JOIE DE VEGAN	*86246330*
CORRESPONDENT ADDRESS: BRIAN J. CREWS BRIAN CREWS LAW PO BOX 1677 DURHAM, NC 27702-1677	CLICK HERE TO RESPOND TO THIS LETTER: http://www.uspto.gov/trademarks/teas/response_forms.jsp  VIEW YOUR APPLICATION FILE
APPLICANT: Christiane Voisin	
CORRESPONDENT'S REFERENCE/DOCKET NO: N/A CORRESPONDENT E-MAIL ADDRESS: briancrewslaw@gmail.com	

# **OFFICE ACTION**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 2/3/2015

#### THIS IS A FINAL ACTION.

#### INTRODUCTION

This Office action is in response to applicant's communication filed on January 15, 2015.

In a previous Office action dated July 16, 2014, the trademark examining attorney refused registration of the applied-for mark based on the following: Trademark Act Section 2(d) for a likelihood of confusion with a registered mark. In addition, applicant was required to satisfy the following requirement: amend the identification of goods.

The trademark examining attorney has thoroughly reviewed the applicant's response and determined the following. The amended identification of goods is acceptable; thus, the identification of goods requirement is *SATISFIED*. The arguments presented in response to the Section 2(d) refusal, however, are unconvincing. *Accordingly, for the reasons set forth below, the refusal under Trademark Act Section 2(d) is now made FINAL with respect to U.S. Registration No. 3995685. See* 15 U.S.C. §1052(d); 37 C.F.R. §2.63(b).

#### SUMMARY OF ISSUES MADE FINAL:

• Section 2(d) Refusal—Likelihood of Confusion

#### SECTION 2(d) REFUSAL - LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3995685. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 et seq. See the enclosed registration.

In the instant case, applicant has applied to register **JOIE DE VEGAN** for "Vegan and gluten-free bakery goods" in Class 30.

The mark in Registration No. 3995685 is **JOIE** for "bakery goods" in Class 30.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. Citigroup Inc. v. Capital City Bank Grp., Inc., 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing On-Line Careline, Inc. v. Am. Online, Inc., 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the du Pont factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. Citigroup Inc. v. Capital City Bank Grp., Inc., 637 F.3d at 1355, 98 USPQ2d at 1260; In re Majestic Distilling Co., 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see In re E. I. du Pont de Nemours & Co., 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.* 

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls , Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

In the instant case, applicant's mark **JOIE DE VEGAN** is confusingly similar to the mark **JOIE** in Registration No. 3995685. Specifically, the word **JOIE** in the applicant's mark is identical in sound and appearance to the entirety of the registrant's mark. Further, as evidenced by the translation statements, the shared term conveys the same meaning in both marks: the French word for "joy".

Furthermore, this shared term appears at the beginning of the applicant's mark. Consumers are generally more inclined to focus on the first word, prefix, or syllable in any trademark. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making purchasing decisions). Therefore, purchasers will focus on the initial word **JOIE** in the applicant's mark and believe—mistakenly—that the mark identifies the same source of bakery goods as the registrant's mark **JOIE**.

Moreover, the additional word **VEGAN** in the applicant's mark merely describes the nature of applicant's goods. Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. *See In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Disclaimed matter that is descriptive of or generic for a party's goods is typically less significant or less dominant when comparing marks. *See In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); *In re Nat'l Data Corp.*, 753 F.2d at 1060, 224 USPQ at 752; TMEP §1207.01(b)(viii), (c)(ii). In this case, the applicant has disclaimed the word **VEGAN**, thereby acknowledging that the word merely describes the nature of applicant's vegan bakery goods. Thus, the word **VEGAN** is less significant in creating a commercial impression.

Further, adding wording to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). See Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc., 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); In re Toshiba Med. Sys. Corp., 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); In re El Torito Rests., Inc., 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part.

And, ultimately, because the registered mark is wholly encompassed within the applicant's mark, purchasers are likely to understand that applicant's mark **JOIE DE VEGAN** identifies a line of vegan bakery goods offered by the **JOIE** brand of bakery goods. Thus, the marks are confusingly similar.

# Applicant's Arguments

Applicant argues that the marks have a different sound and appearance because of the additional words **DE VEGAN** in the applicant's mark. This argument is unpersuasive. Specifically, the applied-for mark encompasses the single word **JOIE** of registrant's mark and the additional terms **DE VEGAN** only serve to reinforce the similarity between the marks because, as discussed more fully above, purchasers are likely to understand the additional wording as identifying an additional line of vegan bakery items provided by the registrant's brand.

The applicant also argues that the word **VEGAN** is the dominant word in the applicant's mark because purchasers of applicant's goods are on a strict vegan diet and will focus on the word **VEGAN** when they buy applicant's goods. It is without question that purchasers will notice the word **VEGAN** in the applicant's mark to ensure that they are buying the right food for their diet. However, purchasers will still understand this term as merely describing the nature of the goods provided. And purchasers do not understand descriptive words—those they are accustomed to encountering on all food that they eat—as denoting the *source* of that food. Rather, they will believe applicant's mark identifies the vegan line of bakery goods provided by the **JOIE** brand.

In addition, the applicant argues that the marks in their entireties convey different meanings. The trademark examining attorney recognizes that the applicant's mark is a parody on the well-known French phrase "joie de vivre", while the registrant's mark is not. However, notwithstanding the differences between the marks, purchasers are likely to still believe the marks identify the same source of goods. When considered in their entireties—and when used in connection with the identified bakery goods—purchasers are likely to understand that applicant's mark **JOIE DE VEGAN** identifies a line of vegan bakery goods offered by the **JOIE** brand of bakery goods. Thus, despite the differences in the marks, purchasers will attribute both marks to the same source of bakery goods.

The applicant also refers to forty-one registrations on the register that include the word "joie" and nine with the phrase "joie de vivre" to argue that purchasers will not be confused by the coexistence of applicant's and registrant's marks. First, please note that mere reference to the registrations do not make such registrations part of the record. To make third party registrations part of the record, an applicant must submit copies of the registrations, or the complete electronic equivalent from the USPTO's automated systems, prior to appeal. *In re Jump Designs LLC*, 80 USPQ2d 1370, 1372-73 (TTAB 2006); *In re Ruffin Gaming*, 66 USPQ2d, 1924, 1925 n.3 (TTAB 2002); TBMP §1208.02; TMEP §710.03. Second, the weakness or dilution of a particular mark is generally determined in the context of the number and nature of similar marks *in use in the marketplace* in connection with *similar* goods. *See Nat'l Cable Television Ass'n*, *Inc. v. Am. Cinema Editors, Inc.*, 937 F.2d 1572, 1579-80, 19 USPQ2d 1424, 1430 (Fed. Cir. 1991); *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A.

Evidence of weakness or dilution consisting solely of third-party registrations is generally entitled to little weight in determining the strength of a mark, because such registrations do not establish that the registered marks identified therein are in *actual use* in the marketplace or that consumers are accustomed to seeing them. *See AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1204 (TTAB 2009); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1639 (TTAB 2009); *Richardson-Vicks Inc. v. Franklin Mint Corp.*, 216 USPQ 989, 992 (TTAB 1982). Furthermore, none of the registrations are for bakery goods; accordingly, none of these registrations would show that the relevant wording is commonly used in connection with the goods at issue.

Applicant argues that parodies of foreign phrases coexist on the register with the phrases that they parody: specifically, CARPE TIEM and CARPE DIEM and MAZEL TOV and MAZEL TOE. However, prior decisions and actions of other trademark examining attorneys in registering other marks have little evidentiary value and are not binding upon the USPTO or the Trademark Trial and Appeal Board. TMEP §1207.01(d)(vi); see In re Midwest Gaming & Entm't LLC, 106 USPQ2d 1163, 1165 n.3 (TTAB 2013) (citing In re Nett Designs, Inc., 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)). Each case is decided on its own facts, and each mark stands on its own merits. See AMF Inc. v. Am. Leisure Prods., Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); In re Binion, 93 USPQ2d 1531, 1536 (TTAB 2009). In this case, the evidence shows that when purchasers encounter applicant's and registrant's marks used on bakery goods, they will believe the marks identify the same source of goods. Thus, the marks are confusingly similar.

#### Relatedness of the Goods

When analyzing an applicant's and registrant's goods for similarity and relatedness, that determination is based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. *See Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); *see also Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002).

Absent restrictions in an application or registration, the identified goods are presumed to travel in the same channels of trade to the same class of purchasers. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1356, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011); *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d at 1268, 62 USPQ2d at 1005. Additionally, unrestricted and broad identifications are presumed to encompass all goods of the type described. *See In re Jump Designs*, 80 USPQ2d 1370, 1374 (TTAB 2006); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the applicant has identified "vegan and gluten-free bakery goods", while the registrant has identified "bakery goods". The registration uses broad wording to describe the goods and this wording is presumed to encompass all bakery goods, including vegan and gluten-free bakery goods like those in the applicant's more narrow identification. Accordingly, the goods of applicant and the registrant are considered related for purposes of the likelihood of confusion analysis.

Moreover, purchasers are accustomed to encountering companies that provide bakery goods and vegan and gluten-free bakery goods. For example, the attached website from Amaru Confections shows that the company provides cakes, cupcakes, and other delectables that are "traditional, gluten free, vegan & gf/vegan". See <a href="http://www.amaruconfections.com/pricing/">http://www.amaruconfections.com/pricing/</a>; see also <a href="http://sarmsbakery.com/bakery-products/whole-sale/">http://sarmsbakery.com/bakery-products/whole-sale/</a>; <a href="http://www.agscupcakery.com/lcupcakery/AGSCUPCAKERYCUPCAKES.htm">http://www.agscupcakery.com/lcupcakery/AGSCUPCAKERYCUPCAKES.htm</a>; <a href="http://www.abcsmartcookies.com/GF-cookie-councils">http://www.abcsmartcookies.com/GF-cookie-councils</a>; <a href="http://www.abcsmartcookies.com/GF-cookie-councils">http://www.abcsmartcookies.com/GF-cookie-councils</a>; <a href="http://www.abcsmartcookies.com/our-ingredients/">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://thai-fresh.com/gluten-free-vegan-bakery/">http://www.3tarts.com/faq</a>; <a href="http://www.whiterabbitbakery.com/sweet.php">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://thai-fresh.com/gluten-free-vegan-bakery/">http://www.3tarts.com/faq</a>; <a href="http://www.whiterabbitbakery.com/sweet.php">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://www.abcsmartcookies.com/our-ingredients/">http://thai-fresh.com/gluten-free-vegan-bakery/</a>; <a href="http://www.3tarts.com/faq">http://www.3tarts.com/faq</a>; <a href="http://www.whiterabbitbakery.com/sweet.php">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://www.abcsmartcookies.com/our-ingredients/">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://www.abcsmartcookies.com/our-ingredients/">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://www.abcsmartcookies.com/our-ingredients/">http://www.abcsmartcookies.com/our-ingredients/</a>; <a href="http://w

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods are related. *See, e.g., In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007).

In addition, the trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods as those of both applicant and registrant in this case. *See* U.S. Registration Nos.

4353374, 4482424, 4539922, 4659834, 4546561, 4510704, 4556084, 4611069, and 4573852, which all identify bakery goods and vegan or gluten-free bakery goods for use under the same mark. This evidence shows that the goods listed therein are of a kind that may emanate from a single source under a single mark. See In re Anderson, 101 USPQ2d 1912, 1919 (TTAB 2012); In re Albert Trostel & Sons Co., 29 USPQ2d 1783, 1785-86 (TTAB 1993); In re Mucky Duck Mustard Co., 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii). Accordingly, when purchasers encounter bakery goods and vegan and gluten-free bakery goods offered under similar marks, they are likely to believe the goods come from the same source. Thus, the goods are related.

Applicant argues that the applicant's and registrant's goods are not related because applicant only provides vegan and gluten-free goods, while the registrant's goods are only "theoretically vegan and gluten-free." However, the question of likelihood of confusion is determined based solely on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)). Accordingly, the examining attorney must presume that the registrant provides all types of bakery goods, including those identified in applicant's more narrow identification. Thus, the goods are essentially identical.

Applicant also argues that consumers of vegan and gluten-free goods are necessarily sophisticated in their buying habits because of their strict adherence to a rigid diet and the limited availability of suitable foods. First, neither the application nor the registration limits its goods to certain sophisticated purchasers. Rather, the applicant's identification of goods is broad enough to encompass consumers who do not adhere to a rigid diet. Even if the applicant's goods are consumed solely by knowledgeable consumers, the fact that purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion. TMEP §1207.01(d)(vii); see, e.g., Stone Lion Capital Partners, LP v. Lion Capital LLP, 746 F.3d. 1317, 1325, 110 USPQ2d 1157, 1163-64 (Fed. Cir. 2014); Top Tobacco LP v. N. Atl. Operating Co., 101 USPQ2d 1163, 1170 (TTAB 2011). The knowledge of the consumers does not obviate a likelihood of confusion

In summary, the marks are confusingly similar and the goods are related. Therefore, purchasers are likely to be confused as to the source of the goods.

Accordingly, the refusal under Trademark Act Section 2(d) is now made FINAL with respect to U.S. Registration No. 3995685. See 15 U.S.C. §1052(d); 37 C.F.R. §2.63(b).

#### RESPONSE GUIDELINES

Applicant must respond within six months of the date of issuance of this final Office action or the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond by providing one or both of the following:

- (1) A response that fully resolves all outstanding refusals.
- (2) An appeal to the Trademark Trial and Appeal Board, with the appeal fee of \$100 per class.

37 C.F.R. \$2.63(b)(1)-(2); TMEP \$714.04; see 37 C.F.R. \$2.6(a)(18); TBMP ch. 1200.

In certain rare circumstances, an applicant may respond by filing a petition to the Director pursuant to 37 C.F.R. §2.63(b)(2) to review procedural issues. TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

/Elizabeth F. Jackson/ Elizabeth F. Jackson Trademark Examining Attorney Law Office 113 (571) 272-6396 Elizabeth.Jackson@uspto.gov

TO RESPOND TO THIS LETTER: Go to <a href="http://www.uspto.gov/trademarks/teas/response\_forms.jsp">http://www.uspto.gov/trademarks/teas/response\_forms.jsp</a>. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For technical assistance with online forms, e-mail <a href="mailto:TEAS@uspto.gov">TEAS@uspto.gov</a>. For questions about the Office action itself, please contact the assigned trademark examining attorney. E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.

All informal e-mail communications relevant to this application will be placed in the official application record.

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <a href="http://tsdr.uspto.gov/">http://tsdr.uspto.gov/</a>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at <a href="mailto:TrademarkAssistanceCenter@uspto.gov">TrademarkAssistanceCenter@uspto.gov</a> or call 1-800-786-9199. For more information on checking status, see <a href="http://www.uspto.gov/trademarks/process/status/">http://www.uspto.gov/trademarks/process/status/</a>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <a href="http://www.uspto.gov/trademarks/teas/correspondence.jsp">http://www.uspto.gov/trademarks/teas/correspondence.jsp</a>.

Print: Feb 3, 2015 77935287

#### **DESIGN MARK**

# Serial Number

77935287

#### Status

REGISTERED

## **Word Mark**

JOIE

### Standard Character Mark

Yes

# **Registration Number**

3995685

# **Date Registered**

2011/07/19

# Type of Mark

TRADEMARK

#### Register

PRINCIPAL

### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

Lum, Selene INDIVIDUAL UNITED STATES 1005 E. Colorado Blvd. Suite 209 Pasadena CALIFORNIA 91106

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery goods. First Use: 2010/02/01. First Use In Commerce: 2010/02/01.

### **Translation Statement**

The English translation of "Joie" in the mark is joy.

### Filing Date

2010/02/13

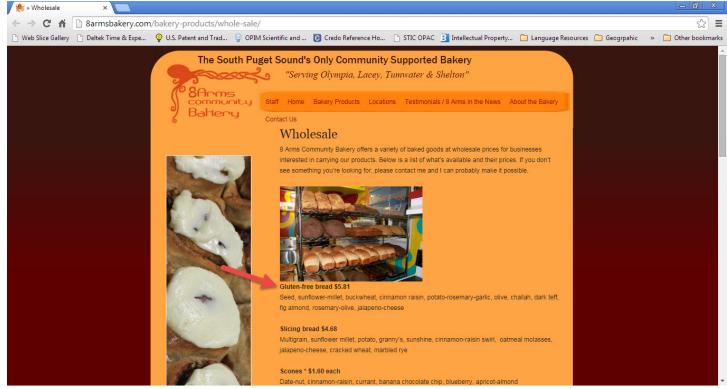
### **Examining Attorney**

ESTRADA, LINDA

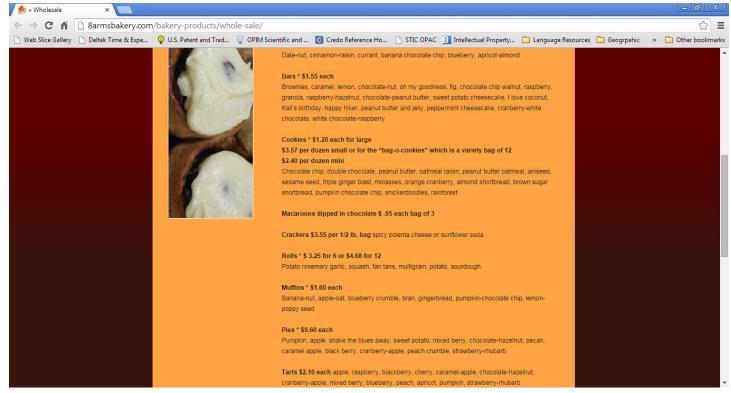
# Attorney of Record

A. Justin Lum

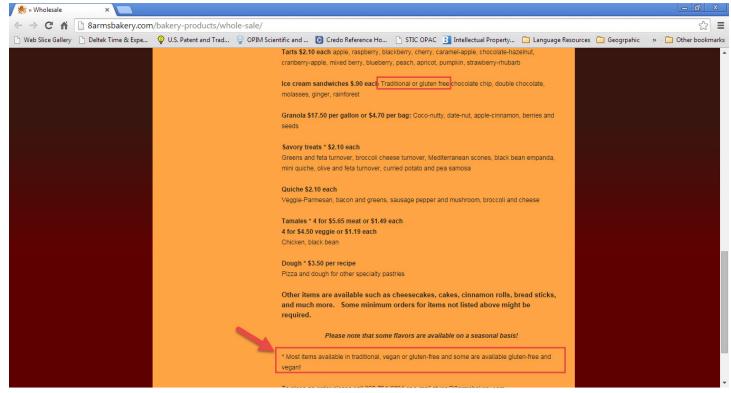
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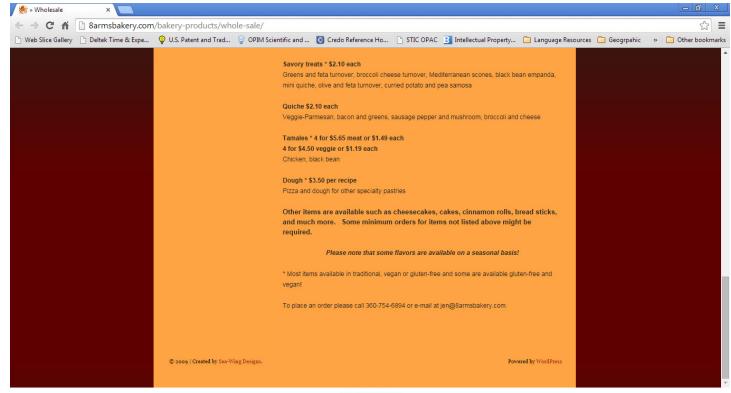
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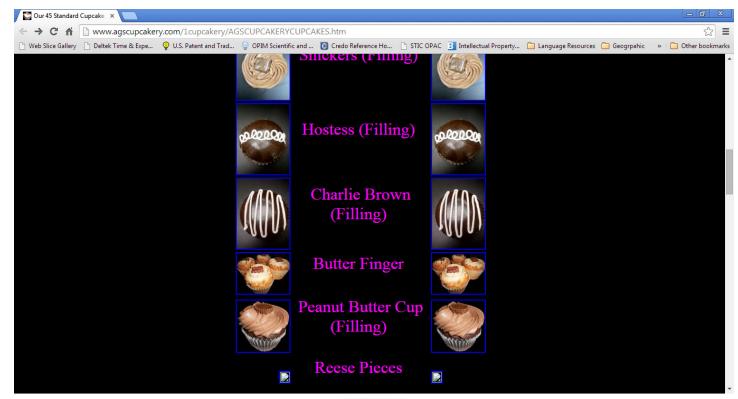
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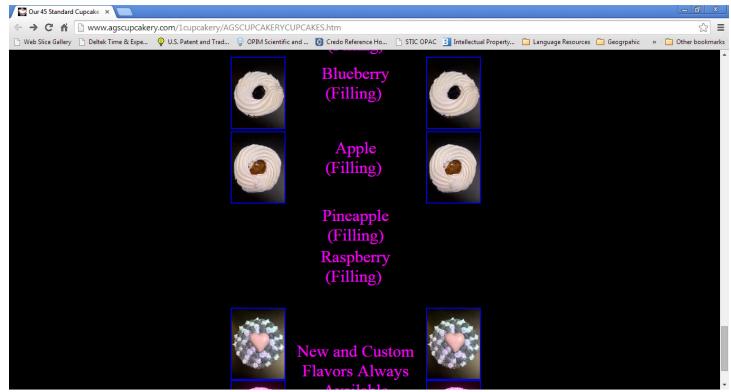
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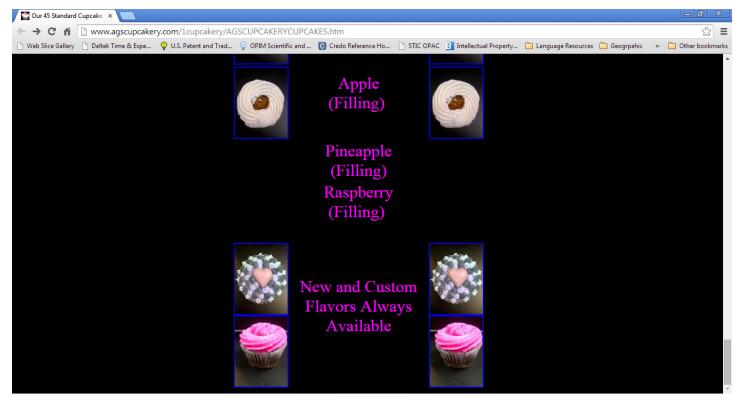
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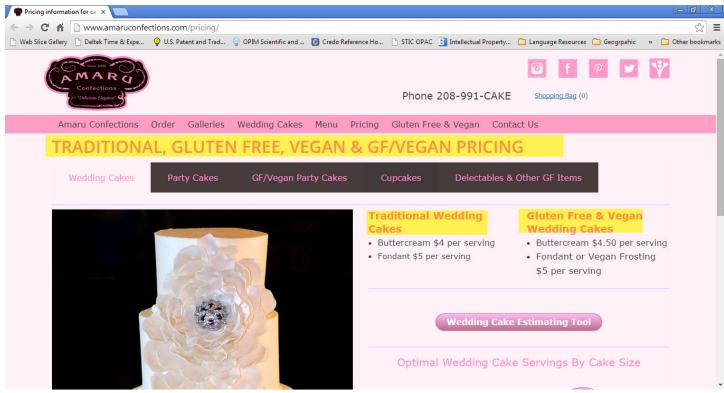
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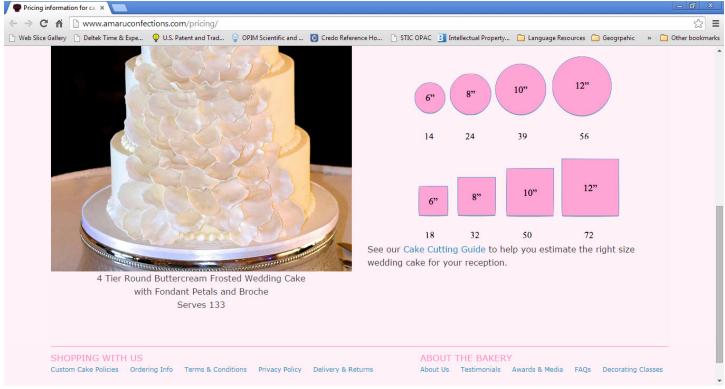
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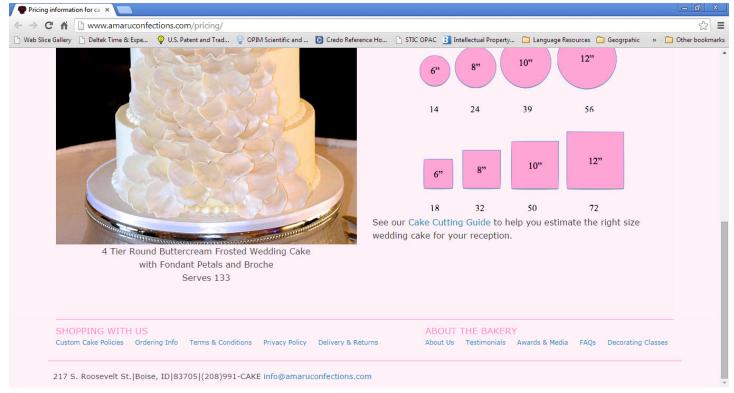
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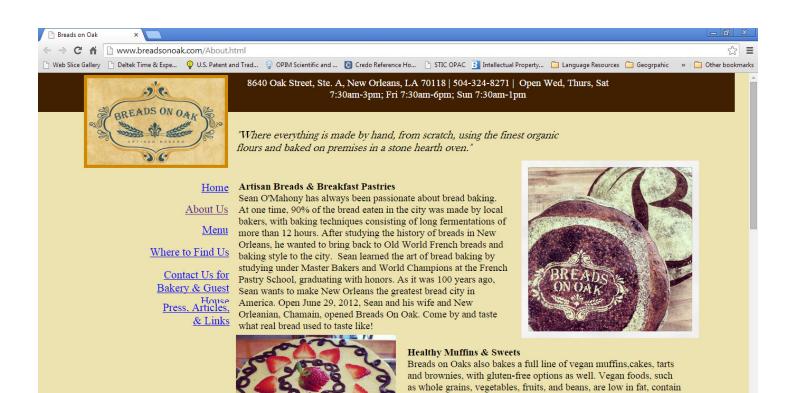
1/21/2015 12:29 PM



1/21/2015 12:30 PM

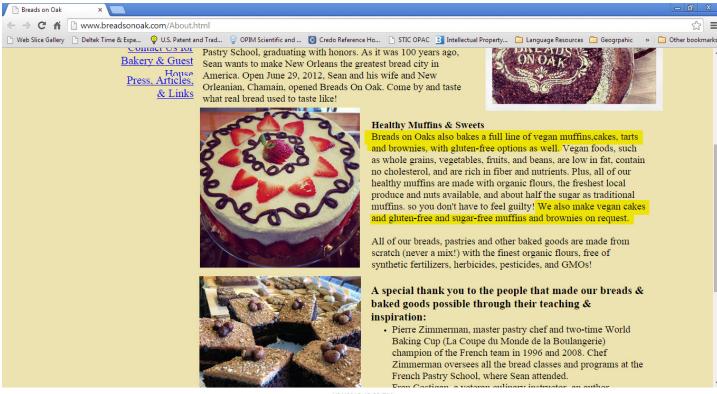


1/21/2015 12:31 PM

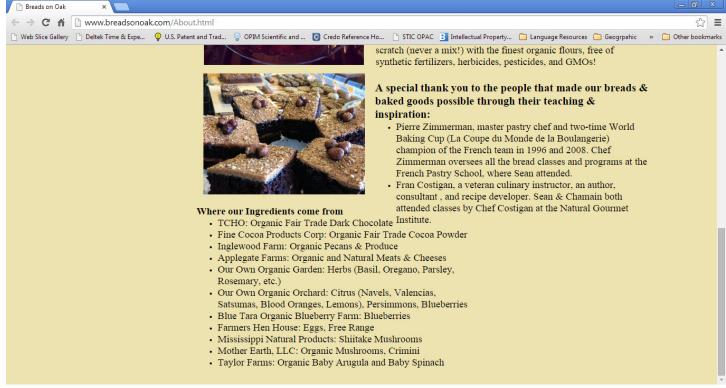


healthy muffins are made with organic flours, the freshest local 1/21/2015 12:56 PM

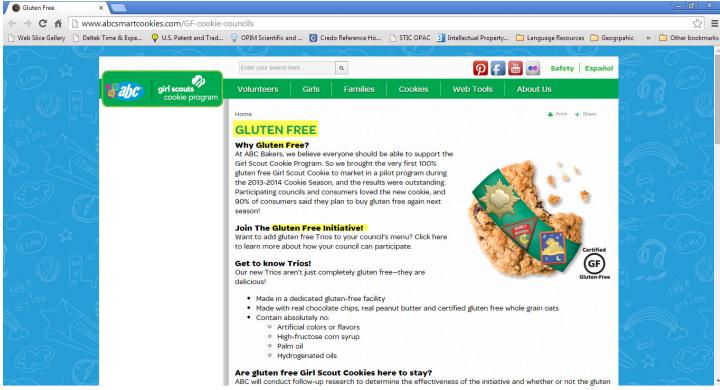
no cholesterol, and are rich in fiber and nutrients. Plus, all of our



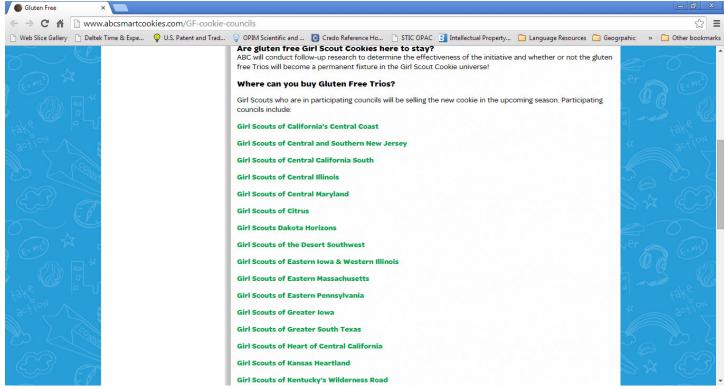
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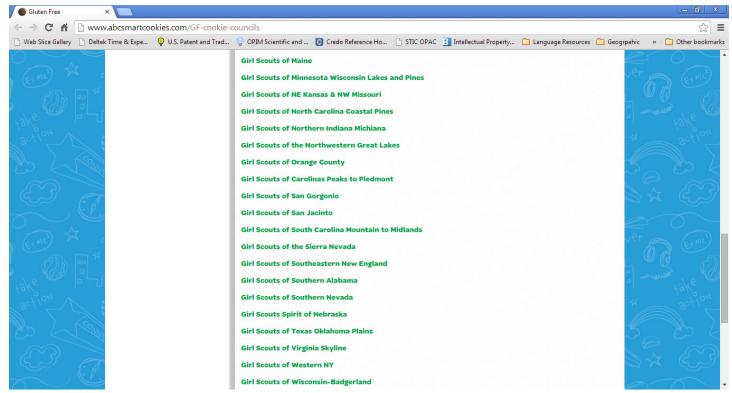
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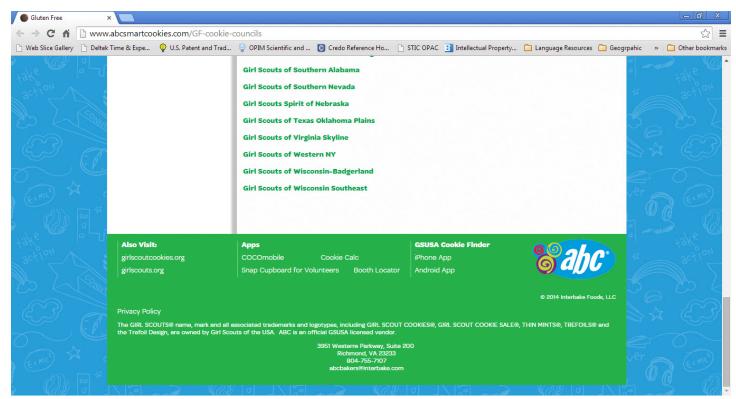
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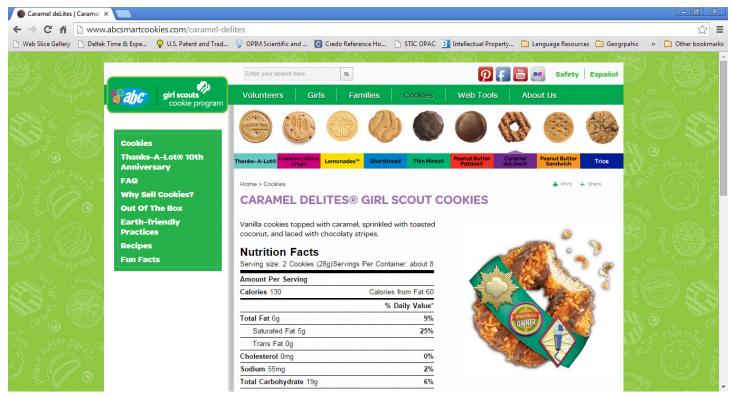
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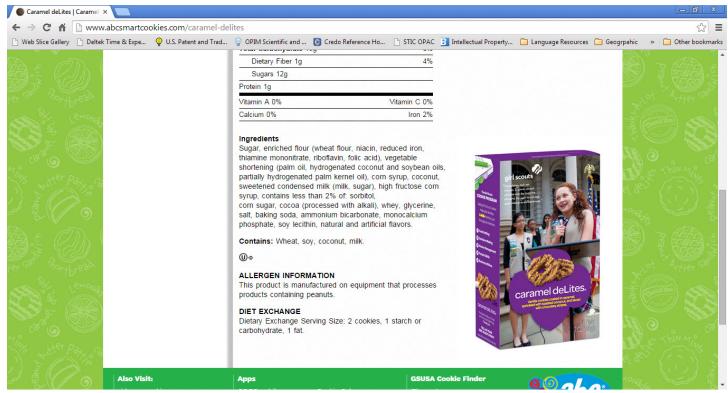
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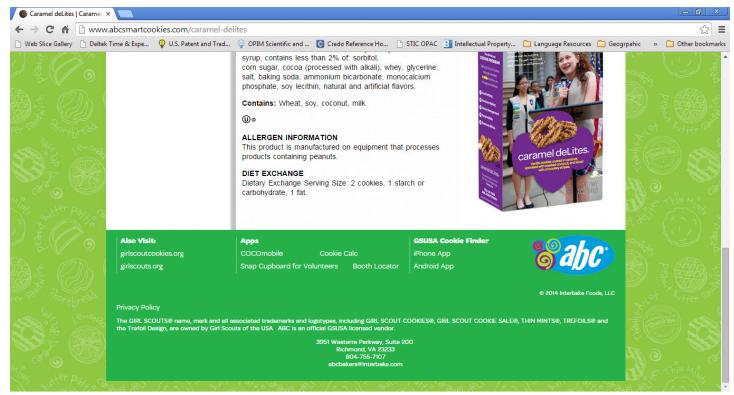
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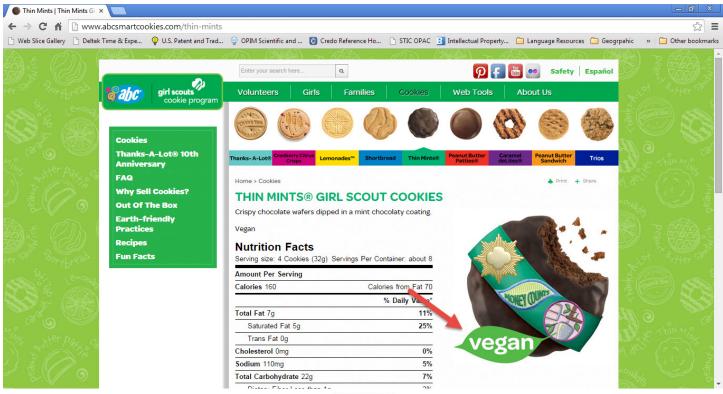
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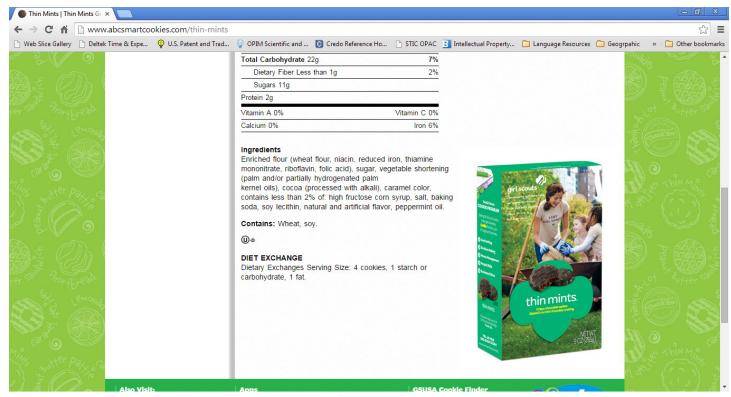
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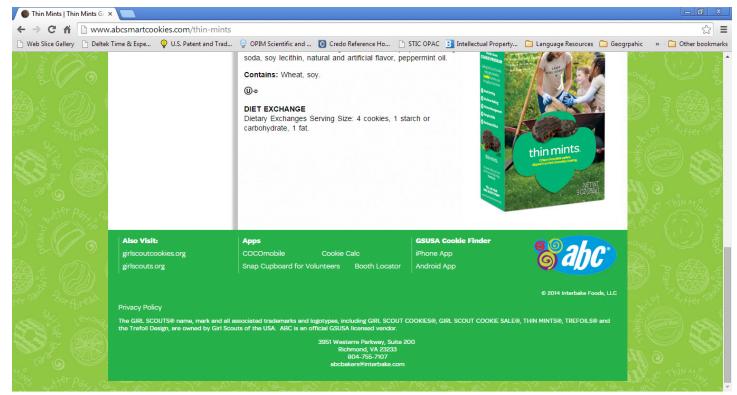
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1/21/2015 10:45 AM



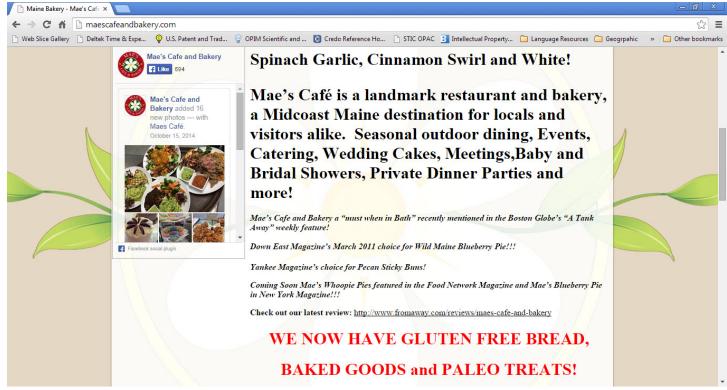
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1/21/2015 10:47 AM



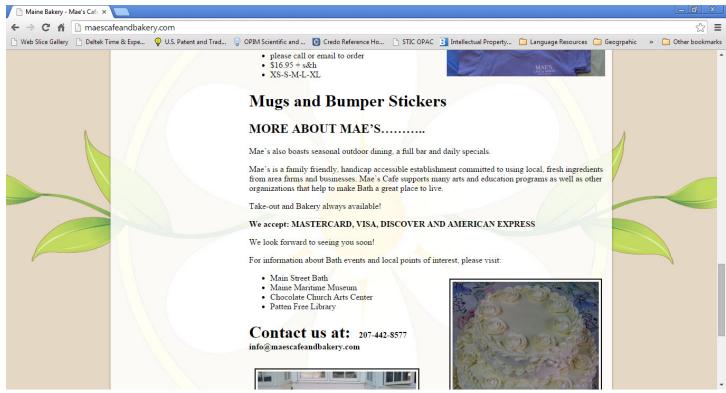
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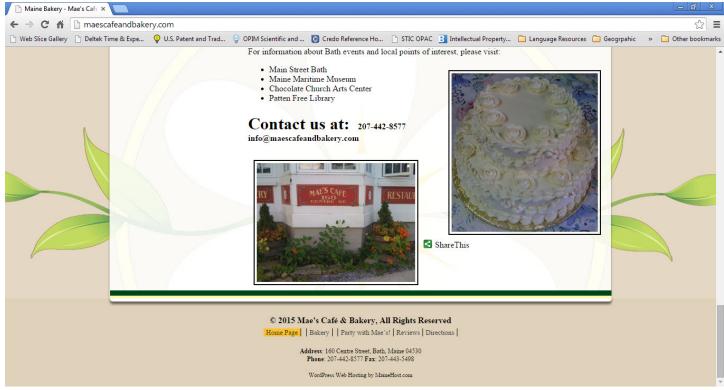
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1/21/2015 11:25 AM



1/21/2015 11:29 AM



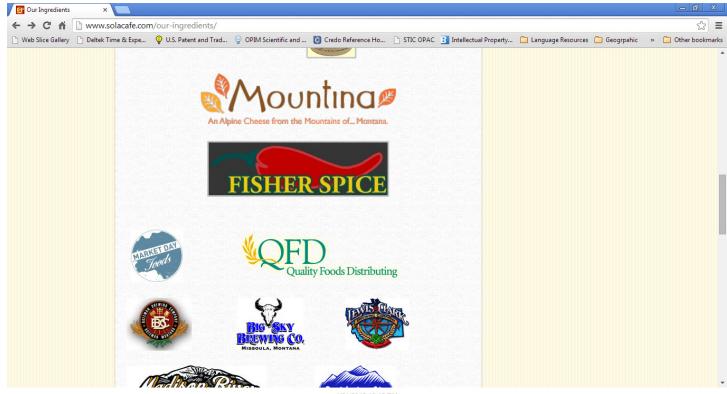
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1/21/2015 12:11 PM



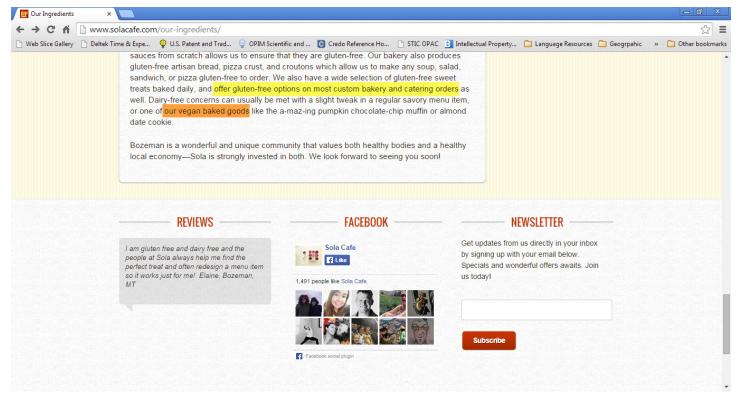
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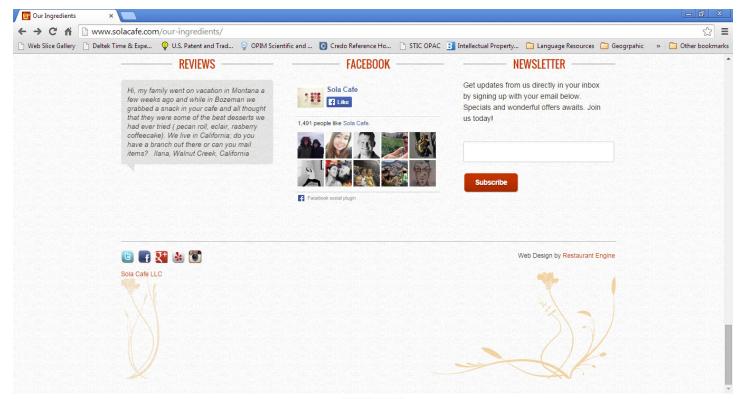
1/21/2015 12:15 PM



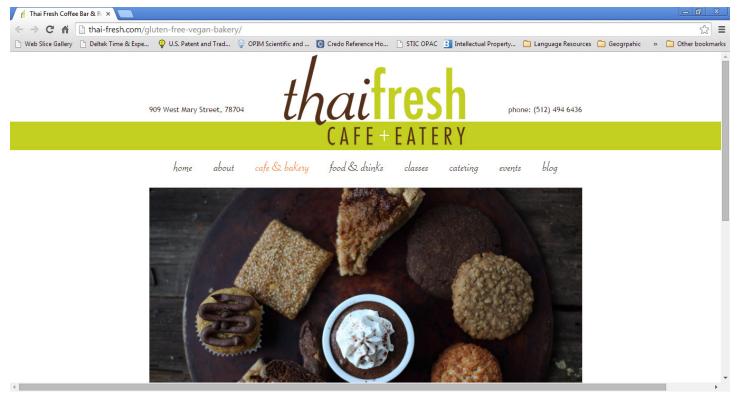
1/21/2015 12:17 PM



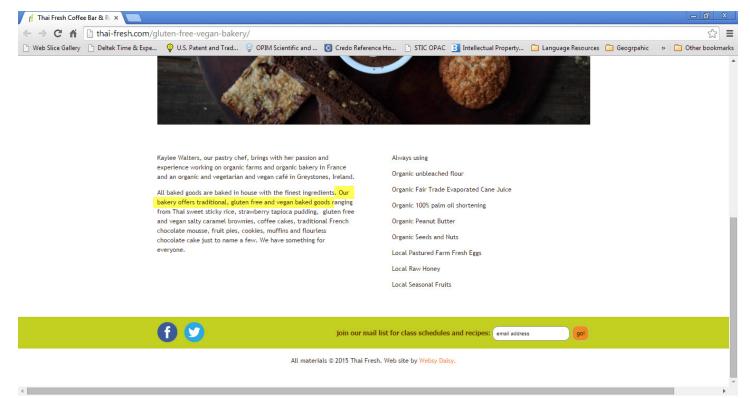
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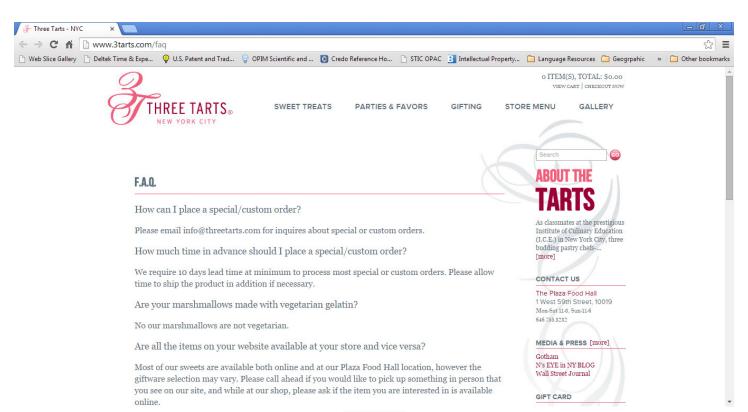
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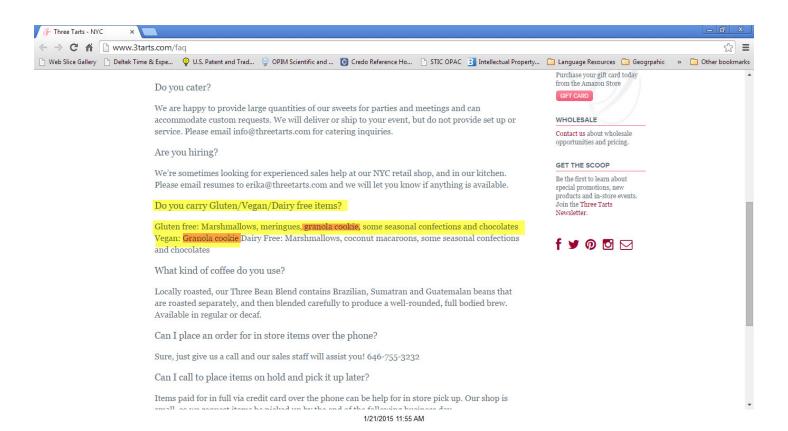
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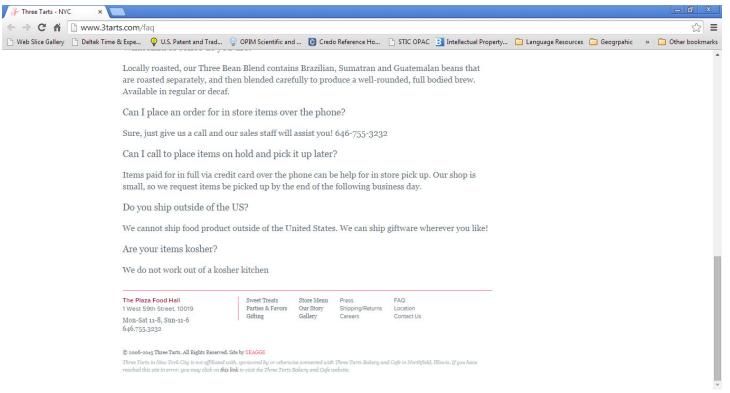


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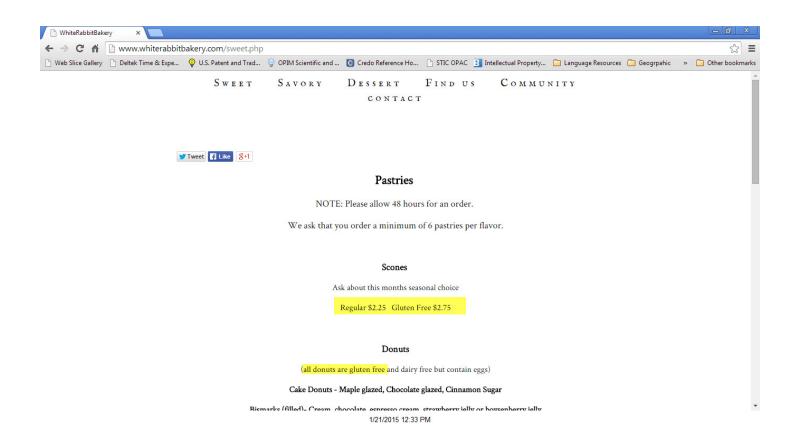


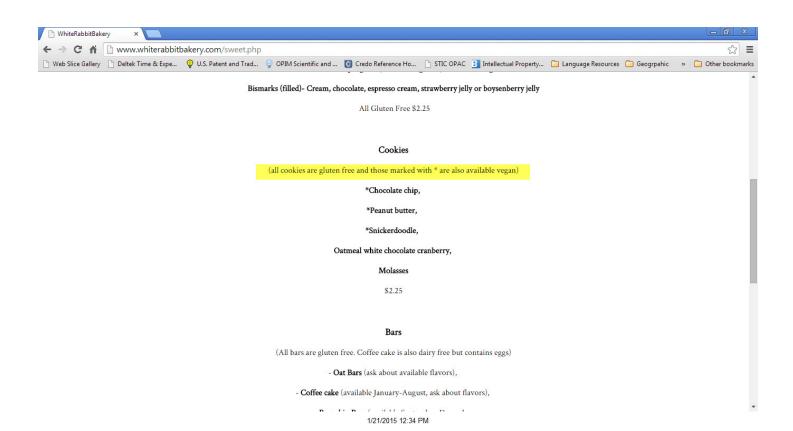
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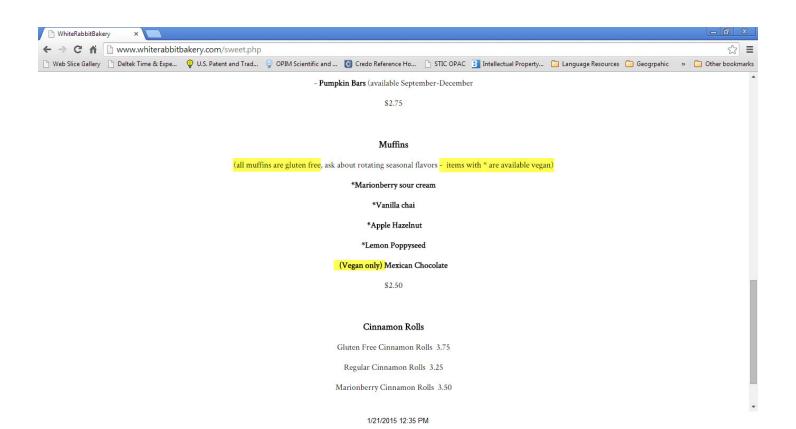




1/21/2015 11:59 AM









1/21/2015 12:36 PM

#### **DESIGN MARK**

#### Serial Number

85205061

#### Status

REGISTERED

#### **Word Mark**

KING KOOKIE

#### Standard Character Mark

Yes

#### **Registration Number**

4659834

#### **Date Registered**

2014/12/23

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

Wai Lana Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 4721 KELTON WAY STE C SACRAMENTO CALIFORNIA 95838

#### Goods/Services

Class Status -- ACTIVE. IC 029. US 046. G & S: Fruit and soy based snack food. First Use: 2014/10/20. First Use In Commerce: 2014/10/20.

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery desserts; Bakery goods; Cookies; Vegan cookies. First Use; 2014/10/20. First Use In Commerce: 2014/10/20.

#### **Disclaimer Statement**

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

#### **Filing Date**

2010/12/23

#### **Examining Attorney**

Print: Feb 3, 2015 85205061

PARK, JENNY

Attorney of Record
Katherine L. McDaniel, Esq.

-2-

## King Kookie

#### **DESIGN MARK**

#### Serial Number

85749794

#### Status

REGISTERED

#### **Word Mark**

NOTHING BUT DELICIOUS!

#### Standard Character Mark

No

#### **Registration Number**

4353374

#### **Date Registered**

2013/06/18

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

#### Owner

Andrea's Fine Foods, Inc. CORPORATION MISSOURI 759 Spirit of St. Louis Blvd. Chesterfield MISSOURI 63005

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery desserts; Bakery goods; Bakery products; Biscuits; Cookies; Gluten-free bread; Mixes for bakery goods; Muffins; Pizza; Pizza crust; Pizza crust mixes; Rolls. First Use: 2012/06/01. First Use In Commerce: 2012/06/01.

#### **Description of Mark**

The mark consists of the words, "Nothing But Delicious!" in printed capital letters, appearing in a rectangular border having rounded corners, the whole tilted slightly toward the viewer's left.

#### **Colors Claimed**

Color is not claimed as a feature of the mark.

#### Filing Date

2012/10/09

Examining Attorney TARCU, CATHERINE

**Attorney of Record** Leo William Higley

# NOTHING BUT DELICIOUS!

#### **DESIGN MARK**

#### Serial Number

85822313

#### Status

REGISTERED

#### **Word Mark**

FREEDULGENCE

#### Standard Character Mark

Yes

#### **Registration Number**

4482424

#### **Date Registered**

2014/02/11

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

Freedulgence LLC LIMITED LIABILITY COMPANY NEW YORK 73 Worth Street Unit 5D New York NEW YORK 10013

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery goods, namely, cookies cakes and brownies; Bakery products, namely, sweet bakery goods; Brownies; Cookies and crackers; Frozen cookie, brownie and biscotti dough; Frozen dough for use as pizza, bread or other bread-type products; Gluten-free bread; Protein reduced and gluten free flour and bread. First Use: 2013/08/01. First Use In Commerce: 2013/08/01.

#### Filing Date

2013/01/14

#### **Examining Attorney**

HETZEL, DANNEAN

#### Attorney of Record

Adam M. Stengel

## FreeDulgence

#### **DESIGN MARK**

#### Serial Number

85906114

#### Status

REGISTERED

#### **Word Mark**

THE BUONOBAR

#### Standard Character Mark

Yes

#### **Registration Number**

4539922

#### **Date Registered**

2014/05/27

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

VITA-NATURALS LLC LIMITED LIABILITY COMPANY CALIFORNIA #820 2973 Harbor Blvd. Costa Mesa CALIFORNIA 92626

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Packaged and refrigerated meals consisting of bakery goods; wheat-free, gluten-free and vegan bakery goods; bakery goods containing fruit and seeds; bread and bread mixes; cereal-based, rice-based and granola-based snack bars; breakfast cereals. First Use: 2013/09/21. First Use In Commerce: 2013/09/21.

#### Filing Date

2013/04/16

#### **Examining Attorney**

MICHOS, JOHN E.

#### Attorney of Record

Eric L. Tanezaki

## THE BUONOBAR

#### **DESIGN MARK**

#### Serial Number

86003830

#### Status

REGISTERED

#### **Word Mark**

SEPH'S SWEETS BAKERY . CAFE . CAKE SHOP

#### Standard Character Mark

No

#### **Registration Number**

4546561

#### **Date Registered**

2014/06/10

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

#### Owner

Seph's Sweets, LLC LIMITED LIABILITY COMPANY ILLINOIS 12 W Conti Parkway Elmwood Park ILLINOIS 60707

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery goods, namely, custom cakes, cookies, sweet bars, sweet breads, cupcakes, gluten-free goods, namely, (cookies, cakes, sweet breads, cupcakes, cake balls and pops, and pies), vegan goods, namely, (cookies, cakes, and pies), cake balls and pops, and pastries. First Use: 2013/04/09. First Use In Commerce: 2013/04/09.

#### Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SWEETS", "BAKERY", "CAFE" AND "CAKE SHOP" APART FROM THE MARK AS SHOWN.

#### **Description of Mark**

The mark consists of the wording "SEPH'S SWEETS" and "BAKERY CAFE CAKE SHOP" in brown in the center of the logo. A stylized cake in green is centered between the words "SEPH'S" and "SWEETS". Two stylized green lines border the wording in an overall rectangular shape with rounded corners. The color white represents background only and is not claimed

#### Print: Feb 3, 2015 86003830

as a feature of the mark.

#### **Colors Claimed**

The color(s) brown and green is/are claimed as a feature of the mark.

### Filing Date 2013/07/08

### Examining Attorney BROWN, BARBARA

-2-



#### **DESIGN MARK**

#### Serial Number

86026562

#### Status

REGISTERED

#### **Word Mark**

SYLVESTER'S BAKERY RESTAURANT CAFE TAKEOUT

#### Standard Character Mark

No

#### **Registration Number**

4611069

#### **Date Registered**

2014/09/23

#### Type of Mark

TRADEMARK; SERVICE MARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

#### Owner

Sylvester's Fine Foods, Inc. CORPORATION MASSACHUSETTS 111 Pleasant Street Northampton MASSACHUSETTS 01060

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery desserts; bakery goods; bakery products; bakery products, namely, sweet bakery products; bakery goods, namely, cookies, brownies, breads, gluten-free breads; Graham crackers; chocolate-covered Graham crackers; caramel-covered Graham crackers; maple syrup; coffee; coffee based beverages; roasted coffee beans; ground coffee beans. First Use: 2004/00/00. First Use In Commerce: 2004/00/00.

#### Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant services; restaurant services, including sit-down service of food and take-out restaurant services; restaurant services, namely, providing food and beverages for consumption on and off the premises; cafe services; take-out restaurant services; bar services. First Use: 2002/12/31. First Use In Commerce: 2002/12/31.

#### Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAKERY" AND "RESTAURANT" AND "CAFE" AND "TAKEOUT" APART FROM THE MARK AS SHOWN.

#### Description of Mark

The mark consists of the word "SYLVESTER'S" where both the first and last letter are larger than the rest of the word. Underneath are the terms "BAKERY" "RESTAURANT" "CAFE" "TAKEOUT", each separated by a diamond design. Above the term "SYLVESTER'S" are three pictures in individual, outlined boxes, with the left most picture depicting a design of an egg on a checkerboard pattern, the middle picture depicting the design of a sun, and the right most picture depicting the design of a filled cauldron with steam lines between designs of vegetables.

#### Colors Claimed

Color is not claimed as a feature of the mark.

#### Filing Date

2013/08/01

#### **Examining Attorney**

RAPPAPORT, SETH A.

#### Attorney of Record

Leah Halpert

-2-



#### **DESIGN MARK**

#### Serial Number

86037166

#### Status

CANCELLATION PENDING

#### **Word Mark**

CLOVER

#### Standard Character Mark

Yes

#### **Registration Number**

4573852

#### **Date Registered**

2014/07/22

#### Type of Mark

TRADEMARK

#### Register

SUPPLEMENTAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

Troy Walker, Cassandra INDIVIDUAL CANADA #2 2261 n. Beachwood dr Los angeles CALIFORNIA 900682965

#### Owner

Walker, Andrew INDIVIDUAL CANADA #2 2261 N Beachwood DR Los Angeles CALIFORNIA 90068

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery goods, namely, muffins, cookies, vegan cookies, cereal based energy bars, donuts, granola, pastries; Sandwiches. First Use: 2013/01/24. First Use In Commerce: 2013/01/24.

#### Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Fruit juices; Vegetable juices. First Use: 2013/01/24. First Use In Commerce: 2013/01/24.

#### Filing Date

2013/08/14

Print: Feb 3, 2015 86037166

### Arnended Register Date 2014/05/16

### Examining Attorney BUSH, KAREN K.

### **Attorney of Record**Raj Abhyanker

## CLOVER

#### **DESIGN MARK**

#### Serial Number

86053413

#### Status

REGISTERED

#### **Word Mark**

BEEFCAKES

#### Standard Character Mark

Yes

#### **Registration Number**

4510704

#### **Date Registered**

2014/04/08

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

MANBAKE LLC LIMITED LIABILITY COMPANY NEVADA 6360 McLeod Drive #14 LAS VEGAS NEVADA 89120

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery goods; Bakery goods, namely, protein muffins, protein cakes and protein cookies; Cakes; Chocolate-based meal replacement bars; Cup cakes; Snack cakes; Vegan cup cakes. First Use: 2013/03/05. First Use In Commerce: 2013/05/10.

#### Filing Date

2013/08/31

#### **Examining Attorney**

COWARD, JEFFERY

#### Attorney of Record

Jennifer J. Riel

## BEEFCAKES

#### **DESIGN MARK**

#### Serial Number

86176690

#### Status

REGISTERED

#### **Word Mark**

PAMELA'S

#### Standard Character Mark

Yes

#### Registration Number

4556084

#### **Date Registered**

2014/06/24

#### Type of Mark

TRADEMARK

#### Register

PRINCIPAL

#### **Mark Drawing Code**

(4) STANDARD CHARACTER MARK

#### Owner

Pamela's Products, Inc. CORPORATION CALIFORNIA Suite D 1 Carousel Lane Ukiah CALIFORNIA 95482

#### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: Bakery desserts; Bakery products, namely, sweet bakery goods; Gluten-free sweet and savory baking mixes, namely, gluten-free biscuit mixes, gluten-free brownie mixes, gluten-free cake mixes, gluten-free cookie mixes, gluten-free pancake mixes,; Gluten-free flour blends; Gluten-free flour-based snack foods; Gluten-free cookies; Gluten-free cereal bars; Gluten free fig bars in the nature of grain-based food bars also containing figs; Grain-based food bars also containing fruit, nuts and chocolate; Biscuit mixes; Brownie mixes; Cookie mixes; Ready to eat, cereal derived food bars. First Use: 2011/04/30. First Use In Commerce: 2011/04/30.

#### Prior Registration(s)

2949450;3997847

#### Filing Date

2014/01/27

Print: Feb 3, 2015 86176690

Examining Attorney CHUO, EMILY

Attorney of Record
Allan I. Zackler

## PAMELA'S

**To:** Christiane Voisin (briancrewslaw@gmail.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86246330 - JOIE DE VEGAN - N/A

**Sent:** 2/3/2015 6:49:00 PM

Sent As: ECOM113@USPTO.GOV

**Attachments:** 

#### UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

### IMPORTANT NOTICE REGARDING YOUR U.S. TRADEMARK APPLICATION

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED ON 2/3/2015 FOR U.S. APPLICATION SERIAL NO. 86246330

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this link or go to http://tsdr.uspto.gov, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from 2/3/2015 (or sooner if specified in the Office action). For information regarding response time periods, see <a href="http://www.uspto.gov/trademarks/process/status/responsetime.jsp">http://www.uspto.gov/trademarks/process/status/responsetime.jsp</a>.

**Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at <a href="http://www.uspto.gov/trademarks/teas/response\_forms.jsp">http://www.uspto.gov/trademarks/teas/response\_forms.jsp</a>.

(3) **QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

#### WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <a href="http://www.uspto.gov/trademarks/basics/abandon.jsp">http://www.uspto.gov/trademarks/basics/abandon.jsp</a>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see <a href="http://www.uspto.gov/trademarks/solicitation">http://www.uspto.gov/trademarks/solicitation</a> warnings.jsp.