

ESTTA Tracking number: **ESTTA874199**

Filing date: **01/30/2018**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Laziza, Inc.		
Entity	Corporation	Citizenship	Florida
Address	8110 County Road 44, Leg A Leesburg, FL 34788 UNITED STATES		

Attorney information	Allison R. Imber, Esq. Allen, Dyer, Doppelt & Gilchrist, P.A. 255 S. Orange Ave., Suite 1401 Orlando, FL 32801 UNITED STATES Email: aimber@allendyer.com Phone: 407-841-2330		
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Registration Subject to Cancellation

Registration No.	5055901	Registration date	10/04/2016
Registrant	Mark Blatt 120 Kates Bridge Newnan, GA 30263 UNITED STATES Email: edwards.kit@gmail.com		

Goods/Services Subject to Cancellation


Class 030. First Use: 2016/02/01 First Use In Commerce: 2016/02/01 All goods and services in the class are subject to cancellation, namely: Barbeque sauce; seasonings

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Abandonment	Trademark Act Section 14(3)
Other	Void Ab Initio

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86916943	Application Date	02/23/2016
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RIB SHACK BBQ		
Design Mark			
Description of Mark	<p>The mark consists of the words "RIB SHACK BBQ" in a circle wherein the words "RIB SHACK" are positioned above the word "BBQ." Inside the circle with the words "RIB SHACK BBQ" is another circle containing the designs of a cow, chicken, pig, and flame, all separated by the crisscrossed design of a knife and barbecue fork. Outside the circle with the words "RIB SHACK BBQ" are two other circles.</p>		
Goods/Services	<p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Beef; Beef patties; Cheese; Chicken; Chicken nuggets; Frozen chicken, namely, chicken tenders; Mozzarella sticks; Onionrings; Pork; Potato chips</p> <p>Class 030. First use: First Use: 0 First Use In Commerce: 0 Barbecue sauce; Salad dressings; Salad dressings containing cream</p>		

Attachments	86916943#TMSN.png(bytes) Petition to Cancel.pdf(171617 bytes)
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Signature	/Allison R. Imber/
Name	Allison R. Imber
Date	01/30/2018

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

In the Matter of U.S. Trademark Registration No. 5,055,901

LAZIZA, INC.,

Petitioner,

Cancellation No: _____



v.

Mark:


MARK BLATT,

Respondent.

_____ /

PETITION TO CANCEL

Petitioner Laziza, Inc., (“Petitioner”), a Florida corporation with an address at 8110 County Road 44, Leg A, Leesburg, Florida, believes it will be damaged by the continued

registration of the mark  (“Respondent’s Mark”) as shown in U.S. Trademark Registration No. 5,055,901 (the “Registration”) for “tee shirts” in Class 25 and “barbeque sauce; seasonings” in Class 30 (collectively, “Respondent’s Goods”) by Mark Blatt (“Respondent”), an individual with an address at 120 Kates Bridge, Newnan, Georgia 30263, and in support of cancellation states as follows:

Petitioner's Mark

1. Petitioner is the owner of U.S. Trademark Application Serial No. 86/916943



(“Petitioner’s Application”) for the mark (‘‘Petitioner’s Mark’’) as used on ‘‘beef; beef patties; cheese; chicken; chicken nuggets; frozen chicken, namely, chicken tenders; mozzarella sticks; onion rings; pork; potato chips’’ in Class 29 and ‘‘barbecue sauce; salad dressings; salad dressings containing cream’’ in Class 30. Petitioner has used Petitioner’s Mark on potato chips in commerce since at least as early as March 1, 2015.

2. Since that time, Petitioner has extensively promoted and continuously used Petitioner’s Mark on potato chips throughout the United States, and has made a significant amount of sales under its Mark. As a result, Petitioner’s Mark has developed valuable goodwill within the relevant trade and industry.

3. Petitioner’s Mark is a distinctive and valuable asset of Petitioner, and is inherently distinctive.

4. Petitioner’s Application has been finally refused registration based on a likelihood of confusion with Respondent’s Mark. In the eyes of the examiner, the Marks are too similar to coexist.

Respondent's Mark

5. Respondent filed U.S. Trademark Application Serial No. 86/726136 on August 15, 2015 on the basis of his intent to use the mark in commerce.

6. On November 4, 2015, Respondent incorporated Southern Tales BBQ LLC, with an address at 120 Kates Bridge, Newnan, Georgia 30263, the same address as the one listed for U.S. Trademark Application Serial No. 86/726136.

7. On July 29, 2016, Respondent filed a Statement to Allege Use specifying a first use date of the mark in commerce of Respondent's Goods as of February 1, 2016, after Southern Tales BBQ LLC was incorporated. The Statement of Use was accepted, and the Registration issued October 4, 2016 in the name of Respondent.

Count I: Likelihood of Confusion

8. Petitioner repeats the allegations set forth in Paragraphs 1-7 above.

9. Petitioner used Petitioner's Mark in commerce before the filing date of the Registration, and before Respondent's first use of its Mark in connection with Respondent's Goods within the United States.

10. Respondent's Mark is confusingly and deceptively similar to Petitioner's Mark. Respondent's Mark is very similar in sight, connotation, and commercial impression to Petitioner's Mark.

11. Respondent's Goods are identical or closely related to the goods provided by Petitioner. Consumers are likely to believe that Respondent and its Goods are somehow sponsored by, affiliated with, and/or related to Petitioner and its goods.

12. Respondent's channels of trade and class of purchasers are likely to be identical to or very similar to those of Petitioner.

13. Due to the similarity between Respondent's Mark and Petitioner's Mark, as well as their respective goods, not to mention the likely similarity of the channels of trade and classes

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