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Attorney Docket No. 10077-15



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TOWNSEND AND TOWNSEND AND CREW LLP

By: Sophia Szymkun
Sophia Szymkun

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

RAMAR INTERNATIONAL CORPORATION

Serial No. 75/930,649

Filed: February 28, 2000

Mark: **PAMPANGA'S BEST and Design**

TM Attorney: David Elton

Law Office: 101

AMENDMENT

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This is in response to the first Office Action dated **August 29, 2000**. That Office Action has been reviewed in depth, and this Amendment is intended to place the application into condition for publication.

I. Disclaimer

Please enter the following disclaimer: No claim is made to the exclusive right to use "PAMPANGA'S BEST" apart from the mark as shown. *Print*

REMARKS

II. Likelihood of Confusion

The Examining Attorney has refused registration of the mark on the Principal Register contending that, when used for the identified goods, Applicant's mark so resembles the **PAMPANGA PFC and Design** mark that is the subject of U.S. Registration No. 1,513,755 to be likely to cause confusion or mistake or to deceive. Applicant respectfully requests that the Examiner reconsider this position.

U.S. Registration No. 1,513,755 was issued to Pampanga Food Company for a mark which consists of the words PAMPANGA and PFC, and a design of two oval bands (one blue, one red) encircling the words. The goods identified in the registration are "cured and seasoned beef, cured and seasoned pork, mixed ground beef and vegetables and mixed ground pork and vegetables."

Applicant's use and registration of the **PAMPANGA'S BEST and Design** mark will not create a likelihood of confusion with Registrant's mark. The only similarity between the marks is the use of the descriptive term PAMPANGA. Pampanga is a province in the Republic of the Philippines that is well-known in that country as well as among Filipino-Americans for **cured and seasoned meats** (see enclosed page printed from the www.seasite.niu.edu web site). Foods in the Pampanga style are popular among Filipino-Americans in the United States, a high proportion of whose families come from the Pampanga province and are loyal to products prepared in the style of the province. A person or thing emanating from this province is commonly called "pampangueno/a" or "pampango/a."

The term PAMPANGA is highly descriptive as it applies to Registrant's cured and seasoned meats. In fact, the term PAMPANGA is disclaimed in the registration (and in this application, see above) because it is an unregistrable component of that mark. It should not be cited against Applicant. Disclaimed matter is not usually regarded as the dominant or most significant feature of the mark. 3 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 19:72, p. 19-130, citing Country Floors, Inc. v. Gepner, 930 F.2d 1056, 18 U.S.P.Q.2d 1577 (3d Cir. 1991). Registrant, having disclaimed PAMPANGA from its composite mark, does not have a claim for infringement of a registered trademark against Applicant or any other entity using PAMPANGA. Id. Moreover, if Registrant is given exclusive rights to the term PAMPANGA, it will unfairly bar entry of competition to this market because producers of food prepared in the Pampanga style will be unable to describe their products as such.

Beyond the descriptive term PAMPANGA, Applicant's mark bears no similarity to Registrant's mark. Applicant's mark does not incorporate the word PFC or the blue and red oval bands. Registrant's mark incorporates neither the word "BEST" nor a design element similar to Applicant's design.

For all of the reasons stated above, we urge the Examiner to reconsider the rejection and withdraw the refusal of registration on likelihood of confusion grounds.

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III. Conclusion

It is believed that with the amendment noted above, the application is now fully in condition for passage to publication and prompt action to that end is earnestly solicited. If a telephone conversation would be appropriate to further the prosecution of this application, please telephone the undersigned.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Dated: February 28, 2001

By: 

Laurie H. van Löben Sels
Attorneys for Applicant

Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: (415) 576-0200
Facsimile: (415) 576-0300
SF 1157751 v1



THE PAMPANGOS



LUZON

Also known as the Kapampangans, the Pampangos inhabit the in the province of Pampanga and some towns of Bataan and Tarlac. The language they speak is called *Pampango* or *Kapampangan*.

Rice and sugar are the principal products of the province. Cottage industries providing livelihood to many people also produce some of the most beautiful crafts, such as mats, hats, and embroidered gloves, appreciated by both the local and international markets. Pampanga is also known for its delicious meat products (tocino and longanisa), pastries, and sweets.



Kapampangans are noted for being good cooks. Variety best characterizes Pampangueno cooking. Everyday meals usually consist of meat and vegetables. Special occasions, such as weddings, baptisms, birthdays, call for elaborately prepared dishes served in fancy, creative ways.

More about the Kapampangans:

Marriage and Kinship System

Religion and Beliefs