



To whom it may concern, regarding trademark application serial number 88519574, the following response is meant to clarify the concerns listed out in the nonfinal office action response where our initial application was refused based on the three issues below:

- 1) Section 2(d) Refusal – Likelihood of Confusion
- 2) Specimen Refused – Printer’s Proof
- 3) Mark Description Clarification Needed

We appreciate the response from Law Office 22 to ensure that there is no confusion moving forward from this application and the artwork/logo in question for Old Hickory, LLC.

Old Hickory, LLC Response on the Refusal on Likelihood of Confusion

Two listed registration numbers, 0206585 and 0675651, were listed as possible confusion to the Old Hickory, LLC logo in application serial number 88519574 in question. The two trademarked logos for those registrations are on the next page below, taken from the USPTO Trademark Electronic Database for easy viewing.



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OLD HICKORY

Word Mark OLD HICKORY
Goods and Services IC 030. US 046. G & S. SALT. FIRST USE: 19250701. FIRST USE IN COMMERCE: 19250701
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 71218339
Filing Date August 3, 1925
Current Basis 1A
Original Filing Basis 1A
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 0206585
Registration Date December 8, 1925
Owner (REGISTRANT) SMOKED PRODUCTS COMPANY CORPORATION OHIO 5TH AND BUTLER STREETS CINCINNATI OHIO
(LAST LISTED OWNER) B&G FOODS NORTH AMERICA, INC. CORPORATION DELAWARE FOUR GATEHALL DRIVE SUITE 110 PARSIPPANY NEW JERSEY 07054
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record SANA HAKIM
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20160218.
Renewal 5TH RENEWAL 20160218
Live/Dead Indicator LIVE

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OLD HICKORY SMOKED SALT

Word Mark OLD HICKORY SMOKED SALT
Goods and Services IC 030. US 046. G & S. SMOKED SALT. FIRST USE: 19250701. FIRST USE IN COMMERCE: 19250701
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 72015835
Filing Date September 17, 1956
Current Basis 1A
Original Filing Basis 1A
Registration Number 0675651
Registration Date March 17, 1959
Owner (REGISTRANT) SPICE ISLANDS COMPANY CORPORATION CALIFORNIA 100 E. GRAND AVE. SOUTH SAN FRANCISCO CALIFORNIA
(LAST LISTED OWNER) B&G FOODS NORTH AMERICA, INC. CORPORATION DELAWARE FOUR GATEHALL DRIVE SUITE 110 PARSIPPANY NEW JERSEY 07054
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record SANA HAKIM
Prior Registrations 0206585,0230542
Disclaimer NO CLAIM IS MADE TO THE WORDS "SMOKED SALT" AND "EDWARDS PROCESS" APART FROM THE MARK AS SHOWN.
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECTION 8(10-YR) 20190316.
Renewal 4TH RENEWAL 20190316
Live/Dead Indicator LIVE



The Old Hickory, LLC logo in the application serial number in question is in the letterhead heading of this response form for reference at the top of each page in this response.

The Old Hickory, LLC logo that is in application serial number 88519574 is **unique** from other stylized versions of the term “Old Hickory.” The following are unique attributes of the Old Hickory, LLC logo:

- 1) The term “Old Hickory” is spelled out in a semicircular fashion starting at approximately 10 degrees from parallel and running in a circular arc to approximately 80 degrees parallel.
- 2) “Old Hickory” is spelled out in a custom font with original artwork that is not reproduceable from standard computer systems. This means that Old Hickory, LLC has paid an artist to design this custom logo, with a custom font. The unique characteristics of this font are listed as follows:
 - a. Each individual letter in the spelling of “Old Hickory” is constructed by individual “logs”. For example, the “O” in “Old Hickory” is made up of four individual logs as can be seen in the letter head.
- 3) “Old Hickory” is spelled out as an arc that runs over a squirrel sitting on a log that runs on a slightly diagonal line from horizontal. The log has a branch that protrudes from the top of the log on the far right. This branch then forks at the top of the branch.
- 4) The Squirrel is seen facing to the left, holding an acorn. The squirrel is sitting on the log on its hind legs, holding the acorn in its front two paws.
- 5) The squirrel’s tail is behind the squirrel, and directly under the “I” and “C” in “Hickory”.

Old Hickory, LLC has been in operation in South Arkansas since the 1950’s and has been using this, or similar versions of the stylized logo since that time.

In this application, with serial number 88519574, Old Hickory, LLC used the broad wording of “seasonings, food seasonings” which according to the examining trademark attorney could be “confused” with the two previously mentioned registered trademarks listed on the previous page.

The trademark attorney can please note that Old Hickory, LLC is continually working to increase its product lines. One of the trademark products of Old Hickory, LLC is Old Hickory’s Regular Barbecue Sauce, which dates to 1944. In the barbecue industry, seasoning blends are very popular. Old Hickory has proprietary recipes on seasoning blends that Old Hickory is working to bring to the market. This is what was intended by listing “seasonings” and “food seasonings” as the applicant’s goods.

Old Hickory, LLC, the applicant in application number 88519574, would like to point out that the point of the custom trademarked logo is to be **the distinguishing characteristic** between Old Hickory, LLC’s food seasonings, and food spices and those that are produced by the existing registrants that correspond to the registrant numbers of 0675651 and 0206585. In addition, each product that Old Hickory produces states in some form or fashion “Manufactured by Old Hickory, LLC, Smackover, AR.”



The reviewing trademark attorney will please also note that this application was intended to update the trademark from an abandoned trademark application with serial number 73472031 which was abandoned by previous owners of Old Hickory on November 9, 1984. The current owners of Old Hickory were told at the time of purchase in 2003 that paperwork had been filed with the USPTO. It did not come to Old Hickory's attention that this application had been abandoned till earlier this year in 2019. See Below:

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Typed Drawing

Word Mark OLD HICKORY
Goods and Services (ABANDONED) IC 030. US 046. G & S: BARBEQUE SAUCE. FIRST USE: 19300700. FIRST USE IN COMMERCE: 19480114
Mark Drawing Code (1) TYPED DRAWING
Serial Number 73472031
Filing Date March 26, 1984
Current Basis 1A
Original Filing Basis 1A
Owner (APPLICANT) OLD HICKORY, INC. CORPORATION ARKANSAS 3505 NORTHWEST AVENUE EL DORADO ARKANSAS 71730
Attorney of Record VINCENT L. RAMIK
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HICKORY" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator DEAD
Abandonment Date November 9, 1984

Finally, in response to the issue of confusion, it should be stated that Old Hickory, LLC with application serial number 88519574 **does not make any claims to the rights of the term "Old Hickory" except in the stylized artwork in this application.**



Old Hickory, LLC Response on the Refusal Due to the Specimen in Question

Old Hickory, LLC submitted artwork for the intended mark in the original application, which is given below:



This was intended as the specimen for the actual logo to be used. We will supplement this specimen with pictures of artwork and pictures from social media which will show that the specimen involved has been in commerce since or before the filing date of the application. The following quote is added for the supplemental specimens and pictures of artwork.

“The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.”



Note the date of the Facebook post is from 2017.





Note that the date posted on this Facebook post is from June 2017





Note that the date of this post is from November of 2016, with the Regular Old Hickory Barbecue Sauce Label in the picture containing the logo.





The following images show the specimen within the artwork of our labels on some of our products from within our food processing facility that show the specified artwork in this application.







The following image is a scanned document as part of a contract with Reinhart Shreveport dated in 2018.



801 Broadway St.
Smackover, AR 71762

November 28, 2018

Refrigerated product sold to Reinhart Foodservice may be frozen prior to the maximum shelf life date. The product must be frozen and kept in a frozen state at 0° F or below to maintain the integrity of the product. Product in the frozen state has a maximum shelf life of 12 months for best quality. Product that is stored at 0° F or below for longer than 12 months will maintain expected food safety levels indefinitely however the quality of the product may be compromised.

Quality Assurance Representative Signature

Supplier Name Old Hickory, LLC
Printed Name of Person Signing Document: Taylor Twitten
Address 801 Broadway St.
City, State, Zip Smackover, AR 71762
Phone 870 725 2190
Fax 870 725 1113
E-mail info@oldhickorysaucecompany.com



PLEASE RETURN TO EMAIL OR FAX PROVIDED BELOW.
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rfsvendors@rfsdelivers.com • PH: 608.793.9413 • FAX: 847.916.1681 • rfsdelivers.com



Old Hickory Response to Mark Description Clarification Needed:

Some of this will be a repeat from previous sections of this response. The official description will be changed to:

“The mark consists of the wording “OLD HICKORY” in stylized letters that are made from logs, arched in a semi-circle over a design of a squirrel holding a nut and standing on a log”

In addition, as previously stated in this response, Old Hickory, LLC **does not make any claims to the rights of the term “Old Hickory” except in the stylized artwork in this application.**