

**ALLEGATION OF USE, WITH DECLARATION**

MARK: FRESH DECOR

SERIAL NO.: 76/685,029

TO: THE HONORABLE COMMISSIONER FOR TRADEMARKS

APPLICANT NAME: SAFEWAY INC.

NOTICE OF ALLOWANCE MAILING DATE: SEPTEMBER 8, 2009

1. Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et. seq., as amended).
2. Applicant is using the mark in commerce for all goods/services identified in the Notice of Allowance in this application, *except: Electric can openers, in International Class 7; Non-electric can openers; cutlery in the nature of silverware, in International Class 8; Measuring cups, measuring spoons, in International Class 9; Figurines of paper mache, in International Class 16; Patio furniture of wood or plastic; works of art of wax, plaster, plastic, in International Class 20; Drinking glasses, namely, wine, martini, margarita; tea sets, namely, pots and cups, serving trays and platters, salad bowls, household utensils, namely, pot and pan scrapers, rolling pins, spatulas, turners, whisks, food spreaders, serving tongs, slotted spoons; cooking utensils, namely, grills, wire baskets, kebob baskets, grill covers; serving utensils, namely, spoons, tongs, forks, pie and cake servers; salt and pepper shakers, cookware for baking and cooking, namely, grill pans, aluminum pans, sheet pans, foil pans; candle holders, BBQ utensils, namely, forks, tongs, turners, spatulas, skewers, grill brushes, basters; figurines of china, crystal, glass, porcelain, terra cotta; cookie decorating kits comprised of cookie cutters and decorating bags for confectioners, in International Class 21; Place mats not of paper, linen table cloths; towels; cooking mitts, in International Class 24; and Egg decorating kits, in International Class 28.*
- 3.a) The mark was first used on Candles in Class 4 at least as early as: 09/05/2011.
- b) The mark was first used in commerce in Class 4 at least as early as: 09/05/2011.
- 4.a) The mark was first used on Decorative lights, namely, electric light decorative strings, in Class 11 at least as early as: 11/25/2009.
- b) The mark was first used in commerce in Class 11 at least as early as: 11/25/2009.
- 5.a) The mark was first used on Works of art of wood, in Class 20 at least as early as: 01/15/2012.

- b) The mark was first used in commerce in Class 20 at least as early as: 01/15/2012.
- 6.a) The mark was first used on Dishes, mugs, bowls, and earthenware, in Class 21 at least as early as: 05/03/2010.
- b) The mark was first used in commerce in Class 21 at least as early as: 05/03/2010.
- 7. One (1) specimen for each class showing the mark as used in commerce is submitted with this statement.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is authorized to execute this Allegation of Use on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, the trademark/service mark is now in use in commerce and all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

SAFEWAY INC.

Signature:  \_\_\_\_\_

Name: Gigi Remington  
(printed or typewritten)

Title: Senior Corporate Counsel

Date: September 6, 2012

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