

ESTTA Tracking number: **ESTTA277965**

Filing date: **04/14/2009**

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 requests to cancel indicated registration.

### Petitioner Information

Name	Azucar, Inc.		
Entity	Corporation	Citizenship	New Jersey
Address	10 Dempsey Avenue Edgewater, NJ 07020 UNITED STATES		

Correspondence information	Dorothy M. Weber Attorney of record, New York bar member Shukat Arrow Hafer Weber & Herbsman, LLP 111 W. 57th St., Suite 1120 New York, NY 10019 UNITED STATES dorothy@musiclaw.com, jason@musiclaw.com Phone:212-245-4580
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### Registration Subject to Cancellation

Registration No	3269602	Registration date	07/24/2007
Registrant	REYGADAS, JOSE ALFREDO 420 Lincoln Rd. Suite 357 Miami Beach, FL 33139 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 043. First Use: 2006/07/01 First Use In Commerce: 2006/07/01 All goods and services in the class are cancelled, namely: Cafe - Restaurant services namely providing various types of coffee and food
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### Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Petition to Cancel TTAB - Asukar TM.pdf ( 3 pages )(47156 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/dmw/
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Name	Dorothy M. Weber
Date	04/14/2009

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

In the matter of Trademark Registration No. 3,269,602  
For the Mark "ASUKAR"  
Date Registered: July 24, 2007

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Azucar, Inc.,

Petitioner,

v.

Cancellation No. \_\_\_\_\_

Jose Alfredo Reygadas,

Registrant.

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**PETITION TO CANCEL**

Petitioner is Azucar, Inc., a New Jersey corporation with a business address of 10 Dempsey Avenue, Edgewater, New Jersey 07020.

To the best of Petitioner's knowledge, the name and address of the current owner of the registration is:

Jose Alfredo Reygadas  
420 Lincoln Rd., Suite 357  
Miami Beach, FL 33139

The above-identified Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

As grounds for this petition, it is alleged that:

**A. Abandonment**

1. A search of the internet (including the Yahoo! yellow pages listings for Miami Beach, Florida) yields no evidence whatsoever of a restaurant by the name of “ASUKAR” in the United States, which indicates that the mark has been abandoned by Registrant.

**B. Registration Obtained Fraudulently**

2. From our review of the photograph specimens submitted by Registrant on February 4, 2007 together with his Statement of Use, we note that much of the signage displayed in the photographs is in the Japanese language, as is a soda can depicted in one of the photographs. Additionally, advertised prices on the signs in the photographs appear to be in Japanese Yen (¥).

3. From the evidence noted above,, it appears as if the specimens depict use of the mark in Japan rather than the United States, and do not constitute “use in interstate commerce” according to Section 45 of the Trademark Act, 15 U.S.C. §1127.

4. If the foregoing is accurate, then Registrant fraudulently signed the Declaration on the Statement of Use with respect to Registrant's mark.

**WHEREFORE**, Petitioners pray that Registration No. 3,269,602 be canceled immediately, and that this Petition for Cancellation be sustained in favor of Petitioner, with costs and legal fees awarded, if appropriate, pursuant to the Federal Rules of Civil Procedure and the Rules of the PTO and the TTAB.