

ESTTA Tracking number: **ESTTA281732**

Filing date: **05/04/2009**

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	Rouge 98, Inc.		
Entity	Corporation	Citizenship	Pennsylvania
Address	205 S. 18th Street philadelphia, PA 19103 UNITED STATES		

Attorney information	Robert A. McKinley Klehr, Harrison, Harvey, Branzburg & Ellers, LLP 260 S. Broad Street philadelphia, PA 19102 UNITED STATES trademarks@klehr.com Phone:215-568-6060		
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Registration Subject to Cancellation

Registration No	3391356	Registration date	03/04/2008
Registrant	LHO Washington Hotel Three, LLC 3 Bethesda Metro Center c/o LaSalle Hotel Properties Bethesda, MD 20814 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2001/12/14 First Use In Commerce: 2001/12/14 All goods and services in the class are cancelled, namely: Restaurant and bar services
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77707270	Application Date	04/06/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ROUGE		

Design Mark	<h1>ROUGE</h1>
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1998/01/08 First Use In Commerce: 1998/01/08 Bar and restaurant services

Attachments	77707270#TMSN.jpeg (1 page)(bytes) _0504154152_001.pdf (6 pages)(1143987 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	/Robert A. McKinley/
Name	Robert A. McKinley
Date	05/04/2009

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

Rouge 98, Inc.,

Petitioner,

v.

LHO Washington Hotel Three, LLC.,

Registrant.

**Registration No. 3,391,356
Granted March 4, 2008**

Cancellation No.

PETITION FOR CANCELLATION

Rouge 98, Inc. ("Petitioner"), a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, with a place of business at 205 South 18th Street, Philadelphia, PA 19103, believes that it will be damaged if the mark that is the subject of United States Trademark Registration No. 3,391,356 for "BAR ROUGE" ("Registrant's Mark"), in the name of LHO, Washington Hotel Three, LLC. ("Registrant"), is maintained on the Principal Register and, therefore, hereby petitions to cancel such registration. The grounds for cancellation are as follows:

1. Registrant is the owner of U.S. Trademark Registration No. 3,391,356 for the mark "BAR ROUGE", registered on March 4, 2008, for restaurant and bar services in International Class 043. Registrant claimed a date of first use of the mark of December 14, 2001.

2. Petitioner currently uses and has used since at least as early as January 8, 1998 the mark "ROUGE" (hereafter referred to as "ROUGE mark") for restaurant and bar services. Attached as Exhibit A hereto is a copy of Petitioner's menu, which shows a depiction of the mark.

3. Petitioner's ROUGE mark is strong, distinctive, and well and favorably known. Petitioner has been, and now is, extensively engaged in marketing, advertising, promoting and selling goods and services under the ROUGE mark, including bar and restaurant services, in interstate commerce. Petitioner's ROUGE restaurant sits in the heart of Philadelphia's upscale, historic Rittenhouse Square District, and serves both casual and business clients from all across the country.

4. By virtue of Petitioner's longstanding and substantial sale and promotion of its services under its mark, and by virtue of its maintenance of high quality standards related thereto, purchasers of the goods and services offered under the mark (and others) have come to recognize the ROUGE mark as indicating goods and services originating from Petitioner, as a consequence of which Petitioner has established valuable goodwill and exclusive rights in said mark.

5. On April 6, 2009, Petitioner filed a U.S. Trademark Application for registration of the "ROUGE mark" for restaurant and bar services, and the application was assigned Serial No. 77/707,270.

6. In connection with the preparation of said Application, Petitioner learned of Registrant's "BAR ROUGE" Registration and discovered that Petitioner's use of its mark predates Registrant's claimed date of first use.

7. For the reasons stated above, Petitioner believes that if Registrant is permitted to retain its Registration No. 3,391,356 upon the Trademark Register, damage and injury to Petitioner would be caused or would result, since Registrant's Mark is confusingly similar to Petitioner's ROUGE mark, and since such confusion is likely to continue and to deceive consumers.

8. Petitioner believes that if Registrant is permitted to maintain its registration for its registered mark, Registrant would continue to enjoy at least a *prima facie* exclusive right to use such mark to the detriment of Petitioner. Moreover, the same may be deemed incontestable after five (5) years from the date of the registration, and Registrant would thereby obtain an incontestable right to use its mark in commerce to the detriment of Petitioner.

WHEREFORE, Petitioner prays that Registration No. 3,391,356 be cancelled.

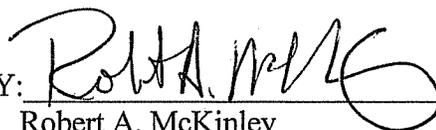
Respectfully submitted,

ROUGE 98, INC.

Date: _____

5/4/09

BY: _____



Robert A. McKinley
Klehr, Harrison, Harvey, Branzburg & Ellers, LLP
Philadelphia, PA 19102
Telephone: (215) 568-6060
Facsimile: (215) 568-6603
Attorney for Petitioner

EXHIBIT A

ROUGE

Small Plates

- French Onion Soup
with Provolone, Gruyere Cheese and Garlic Croustade 14
- Braised Pork Shoulder Raviolis
Sweet Pork Jus & Coriander 15
- Tuna Tartare
Ponzu Sauce, Wasabi-Lime Aioli & Sesame Chips 17
- Classic Steak Tartare
Red Pepper-Cornichon & Caper Relish, Garlic Croustes & Raw Quail Egg 17
- Pan-Seared Day Boat Scallops
Cauliflower Puree, Golden Raisins & Sherry Vinegar Gastrique 18
- Mixed Greens Salad
Shaved Pecorino, Sweet Wine Vinaigrette, Fine Herbs & Sundried Tomato 17
- Bibb Lettuce & Endive Salad
Roquefort Cheese, Spicy Cashews, Red Onion & Granny Smith Apples 14
- Cheese Plate
Selection of Artisan Cheeses, Fresh Fruit & Walnut-Raisin Bread 18
- Steamed Littleneck Clams
Grilled Artisan Bread, White Wine, Garlic, Shallots & Rosemary 17
- Macaroni and Cheese
with Jarlsberg Swiss, Smoked Cheddar & Crispy Parmesan 12
- Bacon Wrapped Escargot
Chive Broth, Crispy Phyllo Dough & Tomato Jam 16
- Shrimp & Lobster Spring Rolls
Mango Sauce & Baby Greens 13

Executive Chef Matthew Zagorski

Large Plates

- Grilled Pork Chop
*Leeks, White Corn, Haricot Verts, Fingerling Potatoes
Carrots & Dijon Mustard Emulsion* 29
 - Herb-Roasted Chicken Breast
Sautéed Spinach, Potato Purée & Chicken Jus 23
 - USDA Prime New York Strip Steak
Pommes Frites & Maitre D'Hotel Butter 37
 - Porcini Crusted Yellowfin Tuna
Potato Risotto, Braised Greens & Port Wine Reduction 29
 - Grilled Swordfish
*Fall Vegetable Stew, Basil Puree, White Wine, Mussel Broth
& Extra Virgin Olive Oil* 27
 - Pan-Seared Line Caught Fluke
Corn Chowder, Smoked Bacon, Thyme & Scallion Foam 27
 - Pan-Seared Salmon
Chorizo, Sweet Corn, Garlic, Shallots, Thyme & Mussel Broth 27
 - The Rouge Burger
Gruyere, Caramelized Onions, Bibb Lettuce, Tomato & Pommes Frites 16
- ### Side Dishes
- Pommes Frites 7
 - Beer-Battered Onion Rings 7
 - Bacon Braised Brussel Sprouts 9
 - Butternut Squash Puree 7
 - Sautéed Spinach with Garlic 7
 - Potato Purée 8
 - Caramelized Onion & Potato Gratin 8
 - Truffle & Parmesan Pommes Frites 9