

ESTTA Tracking number: **ESTTA482426**

Filing date: **07/10/2012**

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

Proceeding	92055558
Party	Defendant Emmmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A. "with the business title "Scala" "Pangosmio"
Correspondence Address	EMMMANOUIL KOKOLOGIANIS AND SONS SOCIETE ANONYME OF TRADE HOTELS AND TOURISM SA AGIA PELAGIA, HERAKLION PC 7150 CRETE, GREECE gobat@davincipartners.com, moetteli@davincipartners.com, emily@virtualparalegalservices.com, sharon@bel-air-ip.com
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Date	07/10/2012
Attachments	MUS-E026-001-C-answer.pdf (8 pages)(580501 bytes)

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

In the matter of Registration	§	
No.: 3,256,667	§	
Registration Date: 2007-06-26	§	Cancellation No.
ECONOMY RENT-A-CAR, Inc.,	§	92055558
Petitioner	§	
v.	§	
Emmanouil Kokologiannis and Sons,	§	Atty Ref No. MUS-E026-001-C
Societe Anonyme of Trade,	§	
Hotels and Tourism S.A	§	
Registrant/Respondent		

CERTIFICATE OF SERVICE

I hereby certify that the attached:

REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

is served on the Petitioner by first class mail and by fax to **001 202 659-1559**.

Date: _____

Name: _____

for John Moetteli
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REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

Registrant, Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels and Tourism S.A., by and through its undersigned counsel, hereby responds to the Petition for Cancellation as follows:

To the numbered allegations in the Petition for Cancellation, Registrant responds as follows:

1. The Registrant is without knowledge or information sufficient to form a belief as to the accuracy of this statement and therefore denies the same.

2. The Registrant is without knowledge or information sufficient to form a belief as to the accuracy of this statement and therefore denies the same.
3. Registrant admits the allegations on this point regarding the owner of the Registration no. 3256667 (hereinafter the “Mark”).
4. Registrant denies this allegation.
5. Registrant denies Petitioner’s allegation of non-use of the Mark and further states that Registrant has never lacked the intent to use the Mark. Registrant denies Petitioner’s allegation that the Mark has been abandoned.
6. Registrant is without knowledge or information sufficient to form a belief as to the accuracy of this statement.
7. The Registrant is without knowledge or information sufficient to form a belief as to the accuracy of this statement and therefore denies the same.

AFFIRMATIVE DEFENSES

The petition for cancellation is, in Registrant’s opinion, based on statements that are not true, statements taken out of context and references to rights that do not exist.

1. In Petitioner's numbered allegation 1, Petitioner claims to render vehicle rental and reservation services either directly or through its licensee, but does not identify its licensee. The allegations in this paragraph are impossible to verify. Thus they do not constitute the "plain statement" required under 37 CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.
2. In Petitioner's numbered allegation 2, Petitioner claims that it has been rendering its vehicle rental services "through its predecessor-in-interest and licensee." It is not clear whether the predecessor-in-interest and the licensee are one and the same entity or not. It is not clear whether the predecessor-in-interest had, or has, an interest in the alleged unregistered trademark that the Petitioner relies upon as the basis for the Petition. The Petitioner's licensee is not identified. The allegations in this paragraph are impossible to verify. Thus they do not constitute the "plain statement" required under 37 CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.
3. In Petitioner's numbered allegation 4, Petitioner refers to a Registration Number for the Registrant's Mark that is incorrect, thus entering information into the record that is confusing and misleading. Thus the allegation does not constitute the "plain statement" required under 37

CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.

4. In Petitioner's numbered allegation 5, Petitioner refers to a Registration Number for the Registrant's Mark that is incorrect, thus entering information into the record that is confusing and misleading. Thus the allegation does not constitute the "plain statement" required under 37 CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.

5. In Petitioner's numbered allegation 6, Petitioner asserts that its own alleged unregistered trademark is confusingly similar to the Mark registered and owned by the Registrant. The effect of this alleged confusing similarity is dependent on whether the Petitioner can prove that its alleged unregistered trademark has priority over Registrant's Mark. Since the Petitioner's alleged trademark cannot be identified or described, there is no basis upon which to evaluate similarity between the Petitioner's alleged trademark and the Registrant's Mark. Furthermore, in this paragraph Petitioner refers to a Registration Number for the Registrant's Mark that is incorrect, thus entering information into the record that is confusing and misleading. Thus these allegations do not constitute the "plain statement" required under 37 CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.

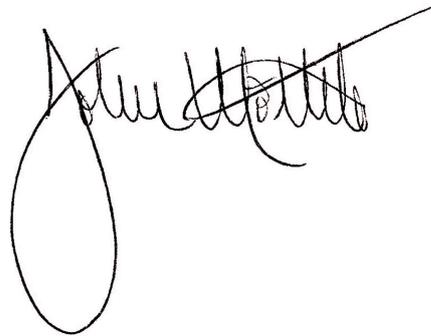
6. In Petitioner's numbered allegation 7, Petitioner claims that it has used its alleged trademark through its predecessor-in-interest, but the predecessor-in-interest is not identified. The allegation of prior use in this paragraph is impossible to verify. Nevertheless, Petitioner relies on such alleged prior use as sufficient ground for the conclusory statement that Registrant's Mark is "inimical to superior rights of Petitioner." Registrant respectfully submits that the allegations in this paragraph do not constitute the "plain statement" required under 37 CFR § 2.112(a). As such, Registrant requests that this Petition be dismissed as fatally defective and with prejudice.
7. If any one of the above numbered affirmative defenses is considered by the TTAB to be insufficient for dismissal with prejudice, Registrant asserts that the totality of the above numbered affirmative defenses is sufficient to warrant dismissal of the Petition for Cancellation with prejudice.
8. In addition to the foregoing, Petitioner has not been and will not be damaged by the registration of the Mark, and therefore lacks standing to petition to cancel the registration.
9. In addition to the foregoing, the damage that Petitioner refers to cannot be proved and consequently, Petitioner cannot support this Petition for Cancellation.

10. In addition to the foregoing, Petitioner is not the owner of the rights referred to in cancellation petition point 7, and therefore lacks standing to petition to cancel the registration.
11. In addition to the foregoing, Petitioner, apparently relying purely on common law rights in a trademark, cannot possibly show valid common law prior use in each and every state or territory of the United States of America, and therefore cannot succeed in cancelling the federal registration of the Mark, valid in all states and territories of the United States of America. Being futile and lacking sufficient basis to cancel Registrant's Mark, the cancellation petition should be dismissed.
12. In addition to the foregoing, Petitioner is barred from seeking cancellation of the Registrant's Mark under the doctrines of laches, estoppel, waiver and/or unclean hands.
13. In addition to the foregoing, if, without admitting it to be so, Petitioner has senior rights to those of Registrant, Petitioner has acquiesced in Registrant's adoption, registration and use of the Mark that is the subject of the Petition for Cancellation.
14. In addition to the foregoing, Registrant has used the Mark beginning in the first half of the decade of the 1990's and so, has used the mark prior to common law use by Petitioner that might otherwise conflict with the

Mark at least with respect to a state or territory of the United States of America.

WHEREFORE, Registrant prays that the Cancellation Petition be dismissed with prejudice.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'John Moetteli', with a large, stylized loop at the end of the signature.

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Date: July 10, 2012