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Filing date: **09/21/2012**

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	TBAAR Franchising Corp.		
Entity	Corporation	Citizenship	New York
Address	4823 8th Avenue Brooklyn, NY 11220 UNITED STATES		

Attorney information	Sunny Kim Ballon Stoll Bader & Nadler, P.C. 729 Seventh Avenue 17th Floor New York, NY 10019 UNITED STATES skim@ballonstoll.com Phone:(212) 575-7900		
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**Registration Subject to Cancellation**

Registration No	3731991	Registration date	12/29/2009
Registrant	Tbar, LLC 117 South 12th Street Philadelphia, PA 19107 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 043. First Use: 2007/03/30 First Use In Commerce: 2007/03/30 All goods and services in the class are cancelled, namely: Restaurant and cafe services
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**Grounds for Cancellation**

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	85490218	Application Date	12/08/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TBAAR		

Design Mark	
Description of Mark	The mark consists of a stylized version of the term Tbaar, along with two Chinese characters translating into the "king of tea," all of which appear in green. Above the term Tbaar are two light green raindrops, one slanted to the right and the second to the left.
Goods/Services	Class 043. First use: restaurant and cafe services

Attachments	85490218#TMSN.jpeg ( 1 page )( bytes ) Petition to Cancel.pdf ( 13 pages )(458060 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	/skim/
Name	Sunny Kim
Date	09/21/2012

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

In the Matter of Registration No. 3731991  
Mark: TBAR  
Registered on December 29, 2009

TBAAR Franchising Corp.,	)	
	)	
Petitioner,	)	Cancellation No. _____
	)	
v.	)	
	)	
Tbar, LLC,	)	
	)	
Respondent.	)	
	)	

**PETITION FOR CANCELLATION**

Petitioner, TBAAR Franchising Corp. (“Petitioner”), a New York corporation, located and doing business at 4823 8<sup>th</sup> Avenue, Brooklyn, New York 11220 believes that it is or is likely to be damaged by Registration No. 3731991 for the TBAR mark, owned by Tbar, LLC, a Pennsylvania limited liability company, located and doing business at 117 South 12<sup>th</sup> Street, Philadelphia, Pennsylvania 19107. As a result, Petitioner, by and through its undersigned counsel, hereby respectfully submits this Petition to Cancel Registration Number 3731991 pursuant to 15 U.S.C. § 1064.

According to the U.S. Patent and Trademark Office (“USPTO”) records, Respondent’s application for the mark TBAR was filed on January 22, 2008 on the basis of Section 1(b). The mark registered as No. 3731991 on the Principal Register on December 29, 2009 for “restaurant and café services” in International Class 43. Respondent claimed March 30, 2007 as the date of first use of the mark anywhere, and March 30, 2007 as the date of first use of the mark in commerce in connection with the services listed in the registration.

As grounds for this petition, it is alleged that:

### **COUNT I**

#### **Likelihood of Confusion, 15 U.S.C. § 1052(d)**

1. Petitioner has adopted and continuously used the mark TBAAR since at least as early as 2006 in U.S. commerce in connection with restaurant and café services.
2. Petitioner has continuously used the TBAAR mark to distinguish its services from those offered by others. Petitioner has spent considerable time and money in advertising and promoting services offered under the TBAAR mark.
3. As a result of Petitioner’s advertising and promotional efforts, as well as its dedication to providing high quality services, Petitioner’s TBAAR mark is favorably recognized and relied upon by the relevant trade and consuming public as indicating high quality services originating from the Petitioner. Petitioner’s TBAAR mark has earned very valuable goodwill.
4. Upon information and belief, Petitioner’s commercial use of the TBAAR mark began before Respondent’s commercial use of the TBAR mark.

5. Petitioner has been damaged by the registration of Respondent's TBAR mark because said mark so resembles Petitioner's TBAAR mark as to be likely, when used in connection with the services identified in Respondent's registration, to cause confusion, mistake or deception.

### **COUNT I**

#### **Abandonment**

6. Petitioner incorporates by reference and realleges Paragraphs 1 through 5 of the claim above as if fully stated herein.

7. Upon information and belief, despite considerable and diligent research, there is no evidence of Respondent's current use of the TBAR mark in commerce.

8. It appears that the Respondent closed its café on November 4, 2011. Attached hereto as Exhibit A are true and accurate copies of several websites detailing the closure of Respondent's café, Tbar.

9. Accordingly, Respondent's TBAR mark has been abandoned due to nonuse or due to a course of conduct that has caused the mark to lose significance as an indication of source.

### **PRAYER AS TO COUNTS I AND II**

WHEREFORE, Petitioner TBAAR Franchising Corp. respectfully requests the Board to cancel Registration No. 3731991 for the mark TBAR owned by Tbar, LLC, that this Petition for Cancellation be sustained on the grounds of likelihood of confusion with

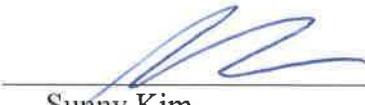
Petitioner's TBAAR mark and abandonment, and that the Board grant such other and further relief as it may deem just and proper.

Dated: New York, New York  
September 21, 2012

Respectfully submitted

BALLON STOLL BADER & NADLER, P.C.

By: \_\_\_\_\_



Sunny Kim  
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*TBAAR Franchising Corp.*  
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**CERTIFICATE OF SERVICE**

I hereby certify on this 21<sup>st</sup> day of September 2012, that a true copy of the foregoing  
PETITION FOR CANCELLATION was served upon the following party by depositing  
same with the United States Postal Service via First-Class mail, postage pre-paid:

Tbar, LLC  
117 South 12<sup>th</sup> Street  
Philadelphia, Pennsylvania 19107  
Attn: President

  
\_\_\_\_\_  
Sunny Kim

# **Exhibit A**



### Tbar - CLOSED

★★★★ 67 reviews

Category: Tea Rooms  
117 S 12th St  
Philadelphia, PA 19107  
Neighborhood: Market East

(215) 625-3936  
http://www.tbartees.com

Accepts Credit Cards: Yes

Price Range: \$  
Parking: Street  
Wi-Fi: Free

Wheelchair Accessible: No



### 67 reviews for Tbar

#### Review Highlights

- "Best of all, it's a nice place to study." In 18 reviews
- "It's book swap has gratuitously hooked me up with some good..." In 2 reviews
- "It's a very quiet peaceful place which makes it good for..." In 4 reviews

#### 67 reviews in English

Anthony W.  
Philadelphia, PA

★★★★ 11/2/2011 2 Check-ins Here

This is a cool place to meet up with someone be it for a chat, a date, or even to hatch a scheme. Short of kungfu showdowns, I'm not socialized into the coffee/tea house culture so I don't know if I would really hang out here, but it's great in small doses. I tend to gorge on my raw tea at home. Also, I agree with many others that it's a great place for people watching. I remember when it was Gallo Clothing... ecghk! This is a much better use of this space.

So what about the tea? Ok check it out... I've been here twice and on each occasion something like 3 out of 4 of the teas I wanted were "unavailable." Eh. The teas I did have were fine... 1 bubble (I forget) and 1 hot (moroccan mint). One thing I think this place could stand to benefit from would be a bottle of liquid sugar or simple mixer syrup. Some shops buy it ready made and some just make it from scratch. It's a game changer! You can just drip and dip (Philly slang meaning: "to leave").

Overall, it's a great alternative to Starbucks/Così/AuBonPricey/Saxby's etc.

#### People Who Viewed This Also Viewed...

- Zenlab Tea Lounge & Internet Cafe  
★★★★ 1 review  
Neighborhood: Washington Square West
- House of Tea  
★★★★ 10 reviews  
"Fantastic variety of loose tea in a nice shop."
- The Random Tea Room & Curiosity Shop  
★★★★ 78 reviews  
"they got a non chai person to enjoy their chai tea."
- Cups & Chairs  
★★★★ 47 reviews  
"...return and cross another exotic loose leaf tea off the list."
- Greenland Tea House  
★★★★ 18 reviews  
"Ask for it in smoothie form; you can't go wrong."

#### People Viewed This After Searching For...

- Boba Philadelphia
- Tea Rooms Philadelphia
- Afternoon Tea Philadelphia



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## **Tbar's Last Day Is Today**

Posted by Foobooz on November 4th, 2011



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2 people recommended this.

 **Second Friday on Lancaster Avenue | Foobooz Philadelphia**  
33 people recommended this.

 **America's Oldest Italian Restaurant Opening in King of Prussia | Foobooz Philadelphia**  
8 people recommended this.

Facebook social plugin

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- [Will](#)  
(Now Open)
- [Pizza Brain](#)  
(September 7th)
- [Mildred](#)  
(September 12th)
- [Federal Donuts - Center City](#)  
(September '12)
- [Fette Sau](#)  
(October '12)
- [More Openings](#)

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- [Pop-Up Garden Happy Hour](#) - 9/13 5:00 PM
- [East Passyunk: 2nd for Families](#) - 0/15
- [Cantina Los Caballitos: Moms & Margaritas](#) - 9/18 2:00 PM
- [Pairings on the Parkway at Milk & Honey Cafe](#) - 9/20 5:00 PM
- [Baltimore Avenue Dollar Stroll](#) - 9/20 5:30 PM
- [East Passyunk: 2nd for Families](#) - 0/22
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**Tbar** is closing after business today. The tea shop has been on the corner of 12th and Sansom for five years. Today all drinks, food, retail, bulk tea, and more is 40% off.

Tbar won't be going away totally as the launch themselves in the online world as a tea retailer.

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