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

#85390971

GURU BEVERAGE CO.)
)
Petitioner,)
)
v.)
)
SAGAR SHAH)
)
Registrant.)

Cancellation No. _____

Reg. No. 4,125,408
NATURE'S GURU

12/14/2012 SWILSON1 00000001 220261 4125408

Attorney's Reference: 115412-341732

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ATTN: BOX TTAB - FEE

PETITION TO CANCEL REGISTRATION NO. 4,125,408

Guru Beverage Co. (hereinafter "Petitioner"), a Delaware corporation with an address at 110 Green Street, No. B-510 Brooklyn, New York 1222, believes that it is and will be damaged by Registration No. 4,125,408 and hereby petitions to cancel the same.

As grounds for this Petition, it is alleged:

1. Petitioner, itself and through its related companies and predecessors in interest, is now and, for many years has been engaged in the business of manufacturing and marketing energy drinks and sports drinks under the trademark GURU and trademarks incorporating the term GURU.
2. Petitioner, itself and through its related companies and predecessors in interest, has used the trademark GURU to identify its energy drinks and sports drinks, in commerce, since at least as early as September 1999, and continues to use that trademark in commerce.
3. Petitioner is the owner of U.S. Trademark Registration No. 2,775,940 issued October 21, 2003 for the mark GURU covering "sports drinks, energy drinks and soft drinks." The application that matured into Registration No. 2,775,940 was filed February 11, 1999.



12-11-2012

4. Petitioner is the owner of U.S. Trademark Registration No. 2,789,042 issued December 2, 2003 for the mark GURU ENERGY DRINK covering “sports drinks, energy drinks and soft drinks.” The application that matured into Registration No. 2,789,042 was filed February 11, 1999.
5. Registrant has alleged a date of first use for its mark NATURE’S GURU in commerce in the U.S. of September 30, 2010.
6. Registrant did not use its NATURE’S GURU trademark, for the goods listed in its application, in commerce in the United States prior to September 30, 2010.
7. Registrant did not use its NATURE’S GURU trademark, for the goods listed in its application, in commerce in the United States prior to October 9, 2009.
8. Registrant did not use its NATURE’S GURU trademark, for the goods listed in its application, in commerce in the United States prior to February 11, 1999.
9. The term GURU in Registrant’s mark is identical to the term GURU in Petitioner’s marks.
10. The term GURU in Registrant’s mark is separated from the term NATURE’S by a design.
11. The Registrant’s mark appears on Registrant’s goods in the following

manner: 

12. Petitioner’s mark GURU has been in use in commerce since prior to any date of first use that can be alleged by Registrant for its mark NATURE’S GURU for goods in Class 32.
13. The Registrant’s mark NATURE’S GURU is so similar to Petitioner’s various trademarks incorporating the term GURU such that Registrant’s use of its trademark to identify its goods in Class 32 is likely to cause confusion and lead to deception as to the source of origin and/or the sponsorship of Registrant’s goods and/or Petitioner’s goods.

14. If the Registrant were permitted to use and maintain its registration for its mark for its goods as specified in its registration, confusion among consumers resulting in damage and injury to Petitioner would be caused by virtue of the similarity between Registrant's trademark and Petitioner's trademarks, and the related nature of the goods covered in Class 32 by those trademarks. Any defect, objection or fault found with Registrant's goods would reflect upon, and seriously injure the reputation and value that Petitioner has established under its trademarks.

WHEREFORE, Petitioner prays that said Registration No. 4,125,408 be cancelled, and that this cancellation proceeding be sustained in favor of the Petitioner.

This Petition for Cancellation is submitted in duplicate together with the statutory filing fee of \$300.00 (Class 32). Should any additional fee be required, please charge the same to our Account No. 22-0261, and notify us accordingly.

Petitioner appoints Mark B. Harrison, Jacqueline Patt, Rebecca Liebowitz, Michael Hall Scott Oslick and Jeremy Klass along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Petition for Cancellation.

Respectfully submitted,

Date: December 11, 2012

By: _____



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Cancellation was served by U.S. Mail, first class, postage prepaid, on this 11th day of December, 2012, on the Registrant at the address listed in the current U.S. Trademark Office Records as follows:

Sagar Shah
DBA Nature's Guru
19416 Amhurst Court
Cerritos, CALIFORNIA 90703



Mark Harrison