

ESTTA Tracking number: **ESTTA574867**

Filing date: **12/05/2013**

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	Craft Worldwide Holdings, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	47 E. 19th Street 4th Floor New York, NY 10003 UNITED STATES		

Attorney information	Brooks R. Bruneau, Esq. Porzio, Bromberg & Newman 29 Thanet Road Suite 201 Princeton, NJ 08540 UNITED STATES brbruneau@pbnlaw.com, dmcculloch@pbnlaw.com Phone:609-924-8555		
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Registration Subject to Cancellation

Registration No	4138717	Registration date	05/08/2012
Registrant	Sekscobra, Inc. 5955 CHATEAU DRIVE San Diego, CA 92117 CANADA		

Goods/Services Subject to Cancellation

Class 043. First Use: 2010/08/01 First Use In Commerce: 2010/08/01 All goods and services in the class are cancelled, namely: Bar and restaurant services; Cafe and restaurant services; Restaurant; Restaurant services

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	There was no use of the mark with all the listed services

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2947414	Application Date	11/25/2003
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	CRAFT		

Design Mark	CRAFT		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2001/03/07 First Use In Commerce: 2001/03/07 RESTAURANT SERVICES		

U.S. Registration No.	2906043	Application Date	11/25/2003
Registration Date	11/30/2004	Foreign Priority Date	NONE
Word Mark	CRAFTSTEAK		
Design Mark	CRAFTSTEAK		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/07/02 First Use In Commerce: 2002/07/02 RESTAURANT SERVICES		

U.S. Registration No.	2954368	Application Date	11/25/2003
Registration Date	05/24/2005	Foreign Priority Date	NONE
Word Mark	CRAFTBAR		
Design Mark	CRAFTBAR		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/01/12 First Use In Commerce: 2002/01/12 RESTAURANT AND BAR SERVICES		

Attachments	76561783#TMSN.gif(bytes) 76561785#TMSN.gif(bytes) 76561950#TMSN.gif(bytes) 2611841-CRAFT_&_COMMERCE_Petition_for_Cancellation.PDF(47159 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	/brooks r. bruneau/
Name	Brooks R. Bruneau, Esq.
Date	12/05/2013

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

CRAFT WORLDWIDE HOLDINGS, LLC	:	
	:	
Petitioner,	:	Cancellation No.:
	:	
Vs.	:	Registration No. 4,138,717
	:	Filing Date: September 10, 2011
SEKSCOBRA, INC.	:	Registration Date: May 8, 2012
	:	Mark: CRAFT & COMMERCE
Respondent.	:	
	:	

PETITION FOR CANCELLATION

Craft Worldwide Holdings, LLC, a Limited Liability Company of the State of Delaware, with a business address of 47 E. 19th Street, 4th Floor, New York, New York 10003, believes it is being damaged by registration of the mark “CRAFT & COMMERCE” registered in connection with its “bar and restaurant services; café and restaurant services; restaurant; restaurant services,” as set forth in U.S. Registration No. 4,138,717 filed September 10, 2011, and registered on May 8, 2012, and hereby petitions the Trademark Trial and Appeal Board to cancel said registration.

As grounds for this Petition to Cancel, it is alleged that:

1. Craft Worldwide Holdings, LLC (hereinafter “Petitioner”) has been offering restaurant services under its “CRAFT” trademark since March of 2001.
2. Petitioner is the owner of the following “CRAFT” trademark registrations:

MARK	SERVICES	U.S. REGISTRATION NO.
CRAFT	Restaurant services	2,947,414
CRAFTSTEAK	Restaurant services	2,906,043
CRAFTBAR	Restaurant and bar services	2,954,368

The above captioned U.S. trademark registrations are hereinafter referred to as “CRAFT Marks”.

3. Sekscobra, Inc.’s (hereinafter “Registrant”) “CRAFT & COMMERCE” currently registered trademark utilizes Petitioner’s entire “CRAFT” trademark and has coupled it with the phrase “& COMMERCE.”

4. The services listed in U.S. Registration No. 4,138,717 encompass Petitioner’s restaurant and bar services as listed in the CRAFT Marks registrations, and includes directly associated services such as café services. Accordingly, the services listed in U.S. Registration No. 4,138,717 are effectively the legal equivalent of the restaurant and bar services offered by Petitioner in connection with its CRAFT Marks.

5. In view of the similarity between the marks, as well as the respective services, Petitioner believes Registrant’s presumptive right to use its “CRAFT & COMMERCE” trademark in connection with the Class 43 services listed in its registration, will blur the identification of Petitioner as a source of restaurant and bar services under the CRAFT Marks, and tarnish the association with which Petitioner’s CRAFT Marks have come to convey. Consequently, Petitioner will eventually be deprived of all distinctiveness in its CRAFT Marks and therefore moves for cancellation of U.S. Registration No. 4138,717 on the grounds set forth in the Counts below.

COUNT ONE

6. Petitioner repeats and realleges the statements and allegations set forth above as if fully set forth in this Count.

7. Registrant's use of its mark in connection with the services listed in U.S. Registration No. 4,138,717 is likely to cause confusion in connection with Petitioner's use of its CRAFT Marks used in connection with restaurant and bar services. Alternatively, because of the nearly identical nature of the services offered by Registrant and Petitioner, as well as the fact that Registrant has combined Petitioner's "CRAFT" mark into its mark, and the fact that both parties' services are offered to the same class of consumers, such use of Registrant's mark is likely to cause a belief by consumers that Registrant's services are those of Petitioner, or are otherwise endorsed, sponsored, or approved by Petitioner, causing damage to Petitioner.

8. Petitioner has been using its CRAFT Marks in connection with restaurant services since at least as early as March of 2001.

9. Registrant asserted dates of first use in its application dating back to August 1, 2010.

10. Petitioner has priority use in connection with its CRAFT Marks used in connection with restaurant services.

WHEREFORE, Petitioner respectfully requests that the federal registration be cancelled on the grounds that Petitioner has priority of rights in the CRAFT Marks and there is a likelihood of confusion or mistake as to affiliation, association, or sponsorship by consumers.

COUNT TWO

11. Petitioner repeats and realleges the statements and allegations set forth above as if fully set forth in this count.

12. Based upon initial investigation by Petitioner, Registrant only had use of its mark "CRAFT & COMMERCE" at one location in San Diego in connection with restaurant and bar services, and no other services, at the time it filed its U.S. Trademark Application on September 10, 2011.

13. Based upon Registrant's failure to have use of the registered mark in connection with café services (as opposed to "restaurant services") or vice versa, Registration No. 4,138,717 is void ab initio because the claim of use of the mark in connection with all the services listed in the original Application Serial no. 85/419,667 was filed with the intent to deceive the Trademark Office into granting a wider breadth of services than the actual services being offered in U.S. commerce at the time of filing the application.

WHEREFORE, Petitioner respectfully requests that the federal registration be cancelled based upon fraud upon the United States Trademark Office.

Respectfully Submitted:

CRAFT WORLDWIDE HOLDINGS, LLC.

Dated: 12/5/2013

BY: 
Brooks R. Bruneau
Porzio, Bromberg & Newman
Attorney for Petitioner
29 Thanet Circle, Suite 201
Princeton, NJ 08540
Tel: 609-924-8555

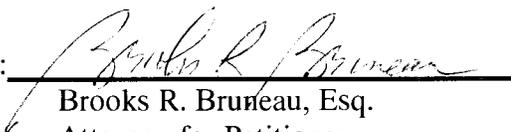
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Petition to Cancel was served upon Respondent, via First Class Mail, Postage Prepaid, on this 5th day of December, 2013 at the follow two addresses:

Seksobra, Inc.
5955 Chateau Drive
San Deigo, CA 92117

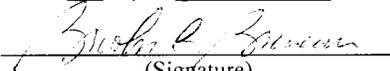
William A. Adams, Esq.
Norton, Moore & Adams, LLP
(Counsel for Registrant)
525 "B" Street, Suite 1500
San Diego, CA 92101

Dated: 12/5/2013

By: 
Brooks R. Bruneau, Esq.
Attorney for Petitioner
PORZIO, BROMBERG & NEWMAN, PC
29 Thanet Road, Suite 201
Princeton, NJ 08540
Tel: (609) 924-8555
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify this Petition to Cancel was electronically filed with the Trademark Trial and Appeal Board this 5 day of Dec., 2013.


(Signature)
12/5/2013
(Date of Signature)