

ESTTA Tracking number: **ESTTA691946**

Filing date: **08/26/2015**

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

Proceeding	92060464
Party	Plaintiff Safeside Tactical, LLC
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY 344 MAPLE AVENUE WEST SUITE 151 VIENNA, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com
Submission	Motion for Summary Judgment
Filer's Name	Matthew H. Swyers, Esq.
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Date	08/26/2015
Attachments	Motion for Summary Judgment.pdf(366289 bytes ) Exhibits A B and C.pdf(262484 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration No. 4,509,171;  
For the mark SAFESIDE;  
Registered on the Principal Register on April 8, 2014.

Safeside Tactical, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92060464
	:	
CheyTac USA, LLC,	:	
	:	
Registrant.	:	

**MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Petitioner, Safeside Tactical, LLC (hereinafter “Petitioner”), by and through counsel, The Trademark Company, PLLC, and pursuant to TBMP § 528 *et seq.* files the instant Motion for Summary Judgment. In support of the instant motion Petitioner states as follows:

**STATEMENT OF CASE**

Petitioner filed the instant Petition to Cancel with the United States Trademark Trial and Appeal Board on or about December 1, 2014 against Registrant, Cheytac USA, LLC (hereinafter “Registrant”) U.S. Registration No. 4,509,171 for the mark SAFESIDE (hereinafter “Registrant’s Mark”) for use in connection with the following goods, namely: “Ammunition for firearms; Breeches of firearms; Firearm sights; Firearms; Foresights for firearms; Gunsights for firearms; Non-telescopic gun sights for firearms; Supplemental chambers for firearms,” in International Class 13 (hereinafter “Registrant’s Goods”) based on the following grounds:

1. Priority and likelihood of confusion with Petitioner’s mark: SAFESIDE TACTICAL (“Petitioner’s Mark”), as more fully identified in Application Serial No. 86/201,940, which retains priority of use over Registrant’s Mark by virtue of its prior use in commerce in the United States.

As Petitioner has now confirmed the same, Petitioner retains priority of use of Petitioner's Mark over the use by Registrant of Registrant's Mark. As such, no genuine issues of material fact exist with regards to the party's priority of use of their respective marks in this matter, and as such, summary judgment is proper in regard to Petitioner's grounds. Accordingly, the instant Motion for Summary Judgment has been submitted so that the Board may now dispose of this matter in the interest of judicial economy.

### **STATEMENT OF FACTS**

1. Registrant contends that it is the owner of U.S. Registration No. 4,509,171 for the mark SAFESIDE (hereinafter "Registrant's Mark") authorized for use in connection with the following goods, namely: "Ammunition for firearms; Breeches of firearms; Firearm sights; Firearms; Foresights for firearms; Gunsights for firearms; Non-telescopic gun sights for firearms; Supplemental chambers for firearms," (hereinafter "Registrant's Goods") in International Class 13.

2. Registrant filed its Application for Registrant's Mark for use in connection with Registrant's Goods on or about February 2, 2013.

3. Registrant's Application for Registrant's Mark received U.S. Serial No. 85/839,213.

4. On or about April 8, 2014, Registrant's Mark published on the Principal Register and received U.S. Registration 4,509,171.

5. Registrant's Registration claims a date of first use in commerce of Registrant's Mark for Registrant's Goods on December 15, 2012.

6. Petitioner is the owner of Federal Trademark Application Serial No. 86/201,940 for the mark SAFESIDE TACTICAL (hereinafter "Petitioner's Mark") for use in connection with the following services, namely: "On-line retail store services featuring firearms and related items; Retail store services featuring firearms and related items," (hereinafter "Petitioner's Services") covered in International Class 35.

7. Petitioner's Application claims a date of first use of Petitioner's Mark in connection with Petitioner's Services on November 15, 2012 and a date of first use in commerce on December 2, 2012.

8. On or about December 1, 2014 Petitioner filed a Petition to Cancel Registrant's Registration for Registrant's Mark on the grounds of priority of use and likelihood of confusion pursuant to Trademark Act Section 2(d).

9. On or about January 9, 2015 Registrant filed an Answer to the Petition to Cancel.

10. On or about January 15, 2015 Registrant filed a Motion to Grant Corrected Date of First Use Without Consent pursuant to 37 CFR § 2.175 and TBMP § 514.01 seeking an order from the Board amending the date of first use claimed on Registrant's Registration from December 15, 2012 to June 24, 2011.

11. On or about February 9, 2015 the Board entered an Order allowing Registrant until on or about March 11, 2015 to submit the required fee and/or declaration in support of the amendment to Registrant's Registration as set out in Registrant's Motion to Grant Corrected Date of First Use Without Consent.

12. On or about February 9, 2015 Registrant filed a Reply in Support of Registrant's Motion to Grant Corrected Date of First Use Without Consent.

13. On or about February 13, 2015 Petitioner served its Initial Disclosures to Counsel for Registrant by U.S. Mail.

14. On or about June 5, 2015 the Board entered an Order denying Registrant's Motion to Grant Corrected Date of First Use Without Consent and resetting the trial dates in the instant case.

15. On or about July 6, 2015 Petitioner served Petitioner's First Set of Requests for Admissions, Requests for Production of Documents and Requests for Interrogatories to Registrant by U.S. Mail (see Exhibit A).

16. Counsel for Petitioner emailed courtesy copies of Petitioner's aforementioned discovery requests to Registrant's Counsel on July 6, 2015 (see Exhibit B).

17. The deadline for Registrant to submit its responses to Petitioner's First Set of Requests for Admissions, Requests for Production of Documents and Requests for Interrogatories to Registrant was on or about August 10, 2015.

18. To date, no response has been received from Registrant in response to Petitioner's First Set of Admissions to Registrant (see Exhibit C).

### ARGUMENT

Pursuant to TBMP § 411.03 "if a party on which requests for admission have been served fails to file a timely response thereto, the requests will stand admitted[...]" Specifically, the requests will be admitted unless the party on which the requests have been served serves on the requesting party a written answer or objection within 30 days. *See* Fed. R. Civ. P. 36(a)(3) and TBMP § 407.03(a).

A motion for summary judgment is appropriate to dispose of cases in which "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *See generally Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *T.A.B. Systems v. PacTel Teletrac*, 77 F.3d 1372, 37 USPQ2d 1879, 1881 (Fed. Cir. 1996); *Dana Corp. v. Belvedere International Inc.*, 950 F.2d 1555, 21 USPQ2d 1047 (Fed. Cir. 1991); and *Copelands' Enterprises Inc. v. CNV Inc.*, 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991).

The purpose of the motion is judicial economy, that is, to avoid an unnecessary trial where there is no genuine issue of material fact and more evidence than is already available in connection with the summary judgment motion could not reasonably be expected to change the result in the case.

#### **I. Petitioner Retains Priority of Use of Petitioner's Mark Over the Use by Registrant of Registrant's Mark.**

Of the issues appropriate to be disposed of summarily, the Board may determine that a party retains priority of use of their trademark over another's use of a competing mark.

In order to establish priority on a likelihood of confusion claim brought under Trademark Act Section 2(d), a party must prove that, vis-à-vis the other party, it owns "a mark previously used in the United States and has not been abandoned." Trademark Act Section 2, 15 U.S.C. § 1052. *See also McKee Foods Corporation v. Debbie & Skip Singleton*, 1999 TTAB LEXIS 128 (TTAB 1999) (in which the court determined, as a matter of law, that the "evidence is sufficient to establish that petitioner has used

LITTLE DEBBIE as a trademark on its granola cereal products since 1986, prior to respondent's first use of their DEBBIE'S FAMOUS GRANOLA mark on March 6, 1990"); *See generally Hawaiian Moon, Inc. v. Rodney Doo*, 2006 TTAB LEXIS 163 (TTAB 2006); *Corporate Document Services, Inc. v. I.C.E.D. Management, Inc.*, 48 U.S.P.Q.2D (BNA) 1477 (TTAB 1998).

In the instant case there is no dispute as to the dates of first use and dates of first use in commerce as to the respective trademarks. As more fully set forth above, Petitioners' rights in Petitioner's Mark have priority of use over Registrant's rights in Registrant's Mark, inasmuch as Petitioner commenced its use of the mark SAFESIDE TACTICAL in connection with Petitioner's Services in interstate commerce on December 2, 2012, which is prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark SAFESIDE. Furthermore, Petitioner's use of Petitioner's Mark has been continuous and uninterrupted and Petitioner continues, to this day, to offer its services under its Mark without an intention to abandon or relinquish the same.

The Registrant, in contrast, concedes that it did not begin use of Registrant's Mark currently at issue that would allegedly grant it priority in this case until December 15, 2012 (*See: Exhibit C, Request No. 2*). Furthermore, Registrant also concedes that Registrant made no use of Registrant's Mark in commerce prior to Petitioner's date of first use of Petitioner's Mark in commerce (*See: Exhibit C, Request No. 9*).

As such, even taking the facts in the light most favorable to the Registrant no genuine issue of material fact exists in regard to the admissions and evidence of record. Petitioner retains priority of use in this matter by virtue of its first and continuous use of Petitioner's Mark.

Wherefore it is respectfully requested that the Board grant Petitioner's motion for summary judgment as to priority.

## **II. Registrant's Goods are Similar to Petitioner's Services**

As set forth in *In re E. I. du Pont de Nemours & Co.*, one of the major factors to be considered when analyzing likelihood of confusion between two marks is the similarity or dissimilarity of the goods. *See* 476 F.2d 1357, 1361, 177 USPQ 563, 567 (CCPA 1973). Additionally, the nature and scope of a

party's goods or services must be determined on the basis of the goods or services recited in the application or registration. *See, e.g., Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002); *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1690 n.4 (Fed. Cir. 1993); *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 18 USPQ2d 1889 (Fed. Cir. 1991); *Octocom Systems Inc. v. Houston Computer Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783 (Fed. Cir. 1990); *Canadian Imperial Bank of Commerce, N.A. v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987); *Paula Payne Products Co. v. Johnson Publishing Co.*, 473 F.2d 901, 177 USPQ 76 (C.C.P.A. 1973). *See generally* TMEP § 1207.01(a)(iii).

In the instant case, the goods provided under Registrant's Mark and the services provided under Petitioner's Mark are both related to firearms. As such, there is no genuine issue of material fact that Registrant's Goods and Petitioner's Services are not highly similar. It is also important to note that the Registrant concedes that the party's marks are used for related goods and services (*See: Exhibit C, Request No. 10*).

As such, it is respectfully requested that the Board grant Petitioner's motion for summary judgment as to similarity of the parties' goods and services.

### **III. Registrant's Mark is Highly Similar to Petitioner's Mark.**

Further another *du Pont* factor relevant in a likelihood of confusion analysis is the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression. *See In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (CCPA 1973). "this test, under this *du Pont* factor, is not whether the marks can be distinguished when subjected to a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impressions that confusion as to the source, sponsorship or affiliation of the goods offered under the respective marks is likely to result." *See General Mills Inc. v. Fage Dairy Processing Industry SA*, 100 USPQ2d 1584, 1600 (TTAB 2011). "[T]he emphasis must be on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks." *See Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106,108 (TTAB 1975). "When marks would appear on virtually

identical goods or services, the degree of similarity necessary to support a conclusion of likely confusion declines.” *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877 (Fed. Cir. 1992).

With regard to appearance, both marks contain the term “SAFESIDE”. As such, it is respectfully submitted that the marks at issue are similar in sight, sound, connotation and commercial impression. It is also important to note that Registrant concedes that the party’s respective marks both contain the identical term “SAFESIDE”, are confusingly similar in appearance and are similar in connotation (*See*: Exhibit C, Request No.’s 10, 11, 12 and 13). Wherefore it is respectfully requested that the Board grant Petitioner’s motion for summary judgment as to the similarity of the marks.

**IV. *Registrant’s Goods Will Travel in the Same Trade and Marketing Channels and Target the Same Consumers as Petitioner’s Services.***

Another of the *du Pont* factors in a likelihood of confusion analysis is the similarity of dissimilarity of established, likely-to-continue trade channels and the conditions under which and buyers to whom sales are made. *See In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (CCPA 1973). As has been demonstrated in the previous section, in this proceeding the parties’ goods are highly similar. Accordingly, the Board must presume that Registrant’s and Petitioner’s goods will be sold in the same channels of trade and will be bought by the same classes of purchasers. *See Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002); *Canadian Imperial Bank*, 811 F.2d at 1491, 1 USPQ2d at 1816; *In re Simth and Mehaffey*, 31 USPQ2d 1531, 1532 (TTAB 1994).

Additionally, it has been held that “[w]here Registrant in its application does not delimit any specific trade channels of distribution, no limitation will be put on the description of goods in determining the opposition.” *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 194 USPQ 419 (CCPA 1977); *Glamorene Prods. Corp. v. Proctor & Gamble Co.*, 538 F.2d 894, 190 USPQ 543 (CCPA 1976); *In re Kanematsu-Gosho (U.S.A. Inc.)*, 196 USPQ 849 (TTAB 1977). Thus, the Registrant is held to its listings of goods for purposes of Petitioner’s Section 2(d) claim. *Aries Sys. Corp. v. World Book, Inc.*, 23 USPQ2d 1742, 1749 (TTAB 1992).

It is also important to note that the Registrant concedes that Registrant's Goods under Registrant's Mark and the Petitioner's Services under Petitioner's Mark will travel in similar trade channels and will be marketed in a similar manner (*See*: Exhibit C, Request No.'s 14 and 15).

Wherefore it is respectfully requested that the Board grant Petitioner's motion for summary judgment as to the overlap in the channels of trade, marketing, and classes of purchasers of the parties' goods and services.

### **CONCLUSION**

WHEREFORE in consideration that no genuine issues of material fact exist can contradict Petitioner's claims of priority and likelihood of confusion in the instant matter, Petitioner respectfully requests that the instant motion for summary judgment be granted and this matter be dismissed with prejudice.

DATED this 26<sup>th</sup> day of August, 2015.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (800) 906-8626 x 100

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Attorney for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration No. 4,509,171;  
For the mark SAFESIDE;  
Registered on the Principal Register on April 8, 2014.

Safeside Tactical, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92060464
	:	
CheyTac USA, LLC,	:	
	:	
Registrant.	:	

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of the foregoing this 26<sup>th</sup> day of August, 2015 to be served, via first class mail, postage prepaid, upon:

JERRY ROMANOFF, ESQ.  
JERRY ROMANOFF P.C.  
4 OCEANVIEW CT.  
LONG BEACH, NEW YORK 11561-1164

/Matthew H. Swyers/  
Matthew H. Swyers

**Return Address:** MATTHEW SWYERS  
344 MAPLE AVE W STE 151  
VIENNA, VA 22180  
**Delivery Address:** JERRY ROMANOFF  
JERRY ROMANOFF PC  
4 OCEANVIEW COURT  
East Atlantic BEACH, NY 11561-1164

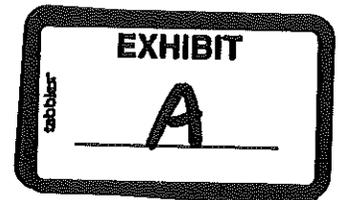
**Print Date:** July 06, 2015 - 09:48:20 AM  
**Mail Date:** July 06, 2015  
**User:** mswyers  
**Weight:** 0 lbs 2 oz  
**Refund Type:** Mail-In  
**Printed Msg:**

**Cost Code:**

**Class/Service:** First Class © \$1.20  
**Special Services:**  
**Insurance:** N/A

**TOTAL COST:** \$1.20

**Tracking:**



## Valerie Kuhar

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**Subject:** FW: Safeside Tactical v. CHEYTAC USA LLC  
**Attachments:** PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT.pdf; PETITIONER'S FIRST SET OF REQUEST PRODUCTION OF DOCS TO REGISTRANT.pdf; PETITIONER'S FIRST REQUESTS FOR ADMISSIONS TO REGISTRANT.pdf

**From:** Valerie Kuhar [<mailto:valeriek@thetrademarkcompany.com>]  
**Sent:** Monday, July 06, 2015 6:02 PM  
**To:** [jerryromanoff@aol.com](mailto:jerryromanoff@aol.com)  
**Subject:** Safeside Tactical v. CHEYTAC USA LLC

Attached please find courtesy copies of Petitioner's First Set of Discovery Requests. Copies of the same have been served to you via US Mail today as well. Thank you.

**Best,**

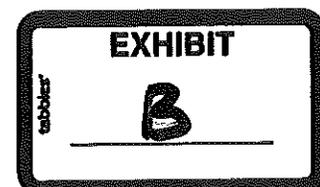
## Valerie Kuhar

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration No. 4,509,171;  
For the mark SAFESIDE;  
Registered on the Principal Register on April 8, 2014.

Safeside Tactical, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92060464
	:	
Cheyta USA, LLC,	:	
	:	
Registrant.	:	

**PETITIONER'S FIRST REQUESTS FOR ADMISSIONS TO REGISTRANT**

TO:           JERRY ROMANOFF, ESQ., JERRY ROMANOFF P.C. 4 OCEANVIEW CT.  
              LONG BEACH, NEW YORK 11561-1164

FROM:        MATTHEW H SWYERS, ESQ., THE TRADEMARK COMPANY, PLLC  
              344 MAPLE AVENUE WEST, SUITE 151 VIENNA, VA 22180-5612

Pursuant to the applicable rules of the Federal Rules of Civil Procedure and TBMP, Petitioner, Safeside Tactical, LLC (hereinafter "Petitioner"), requests that Registrant, Cheyta USA, LLC (hereinafter "Registrant"), admit or deny the following Requests for Admissions within the time permitted by the applicable rules.

**DEFINITIONS**

A.       The term "Petitioner" shall mean Safeside Tactical, LLC and/or any present or former servant, agent, attorney or other representative acting on its behalf.

B.       The term "Registrant" shall mean Cheyta USA, LLC and any present or former officer, director, employee, servant, agent, attorney or other representative acting on its behalf, and shall include any predecessor or successor either within the United States or a foreign country.

C.       The term "trademark" or "mark" includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. § 1127.



D. The term “in the U.S.” shall mean use in interstate and/or intrastate commerce in the United States.

E. The term “Registrant’s Mark” refers to the mark SAFESIDE as identified in U.S. Registration No. 4,509,171.

F. The term “Petitioner’s Mark” refers to the mark SAFESIDE TACTICAL as identified in Federal Trademark Application Serial No. 86/201,940.

G. The term “you” shall mean the party or person to whom these interrogatories are propounded, all agents, employees, servants, attorneys, and all other representatives, and persons over whom the person or party to whom these interrogatories are propounded has the right to or does control or direct and activities.

H. The phrase “legal action” shall mean submission of correspondence to the Registrant or any third party not a party to this proceeding requesting that they cease use of a mark, or institution of any legal proceeding in the United States Patent & Trademark Office, state, or federal court or agency.

I. The term “live” shall mean currently registered with the U.S. Patent and Trademark Office and not dead as it applies to abandoned, cancelled, or successfully opposed trademarks.

J. The term “commerce” is define as “all commerce which may lawfully be regulated by Congress” as found in TEMP sec 901.01.

### **REQUESTS FOR ADMISSIONS**

1. Admit that Registrant filed its Application for Registrant’s Mark on a Section 1(a) filing basis on February 2, 2013.

### **RESPONSE:**

2. Admit that Registrant's underlying application for Registrant's Mark claimed a date of first use in commerce of Registrant's Mark in connection with Registrant's Goods on December 15, 2012.

**RESPONSE:**

3. Admit that the invoice attached to Registrant's Answer to Petitioner's Petition to Cancel and the invoice attached to Registrant's Motion to Approve a Section 7 Request Without Consent is dated May 9, 2012.

**RESPONSE:**

4. Admit that Registrant claims in its Answer and Motion to Approve a Section 7 Request Without Consent that Registrant first began using Registrant's Mark in commerce on June 24, 2011.

**RESPONSE:**

5. Admit that Registrant uses Registrants Mark for the following goods: "Ammunition for firearms; Breeches of firearms; Firearm sights; Firearms; Foresights for firearms; Gunsights for firearms; Non-telescopic gun sights for firearms; Supplemental chambers for firearms".

**RESPONSE:**

6. Admit that Petitioner is the owner of Federal Trademark Application Serial No. 86/201,940 for the mark SAFESIDE TACTICAL.

**RESPONSE:**

7. Admit that Petitioner uses Petitioner's Mark in connection with the following services: "On-line retail store services featuring firearms and related items; Retail store services featuring firearms and related items".

**RESPONSE:**

8. Admit that Petitioner's Application for Petitioner's Mark claims a date of first use of Petitioner's Mark in connection with Petitioner's Services on December 2, 2012.

**RESPONSE:**

9. Admit that Registrant made no use of Registrant's Mark in commerce prior to Petitioner's date of first use of Petitioner's Mark in commerce.

**RESPONSE:**

10. Admit that Petitioner and Registrant use their respective marks for related goods and services.

**RESPONSE:**

11. Admit that Petitioner's Mark and Registrant's Mark both contain the identical term SAFESIDE.

**RESPONSE:**

12. Admit that Registrant's Mark is confusingly similar in appearance to Petitioner's Mark.

**RESPONSE:**

13. Admit that Registrant's Mark is similar in connotation to Petitioner's Mark.

**RESPONSE:**

14. Admit Registrant's Goods travel in similar trade channels to those services of the Petitioner.

**RESPONSE:**

15. Admit that Registrant's Goods under Registrant's Mark are marketed in a similar manner to Petitioner's Services under Petitioner's Mark.

**RESPONSE:**

16. Admit that Registrant retains no proof of Registrant's use of Registrant's Mark in commerce prior to December 15, 2012.

**RESPONSE:**

17. Admit that the documents produced by Registrant in response to Petitioner's First Request for Production of Documents are true and accurate reproductions of the genuine original documents.

**RESPONSE:**

DATED this 6<sup>th</sup> day of July, 2015.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (866) 455-8800 x704

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mswyers@TheTrademarkCompany.com

Attorney for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Registrant.	:	

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of the foregoing this 6<sup>th</sup> day of July, 2015 to be served, via first class mail, postage prepaid, upon:

JERRY ROMANOFF, ESQ.  
JERRY ROMANOFF P.C.  
4 OCEANVIEW CT.  
LONG BEACH, NEW YORK 11561-1164

/Matthew H. Swyers/  
Matthew H. Swyers