

ESTTA Tracking number: **ESTTA678676**

Filing date: **06/17/2015**

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

Proceeding	92061164
Party	Defendant Kleansmart Corporation
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Submission	Answer
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Date	06/17/2015
Attachments	Answer to Petition for Cancellation.pdf(15446 bytes)

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

Cleansmart Cleaners, LLC,

Petitioner,

v.

Kleansmart Corporation,

Registrant.

Cancellation No.: 92061164

Registration No. 4,040,999

Mark: **KLEANSMART & Design**

ANSWER TO PETITION FOR CANCELLATION

Kleansmart Corporation (“Registrant”), by and through its undersigned counsel, hereby through its undersigned counsel, hereby submits its Answer and Affirmative Defenses to the Petition for Cancellation (“Petition”) filed by Petitioner Cleansmart Cleaners, LLC (“Petitioner”), and in support of its U.S. Trademark Registration No. 4,040,999 (the “999 Registration”), states as follows:

1. Registrant admits that Petitioner is listed as the filer of U.S. Trademark Application Serial No. 86/314,678 for the mark **CLEANSMART**. Registrant further admits that an Office Action issued against that application on September 27, 2014 refusing the application on the grounds of a likelihood of confusion with the ‘999 Registration.

2. Registrant denies that Petitioner is damaged by the continued registration of the ‘999 Registration.

3. Registrant admits the ‘999 Registration issued on October 18, 2011. Registrant denies that the Petition is timely, but admits that 15 U.S.C §1064 does not bar the Petition.

4. Registrant admits that its name is Kleansmart Corporation and that its address is 7444 Narcoossee Road, Suite 410, Orlando, Florida 32822. Registrant is without knowledge or

information sufficient to admit or deny whether this is to the best of Petitioner's knowledge, and hereby denies same

5. Registrant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 5 of the Petition, and based upon such lack of knowledge or information, hereby denies same.

6. Registrant is without knowledge or information sufficient to admit or deny whether Petitioner previously used and did not abandon its trademark rights in its mark, and based upon such lack of knowledge or information, hereby denies same. Registrant further is without knowledge or information sufficient to admit or deny whether there is a likelihood of confusion present between Registrant and Petitioner's respective marks, and based upon such lack of knowledge or information, hereby denies same

AFFIRMATIVE DEFENSES

1. Petitioner and/or Petitioner's mark are not likely to be damaged or harmed by the continued registration of Registrant's mark.

2. Petitioner is barred from bringing this Petition because of the doctrines of waiver, laches, acquiescence and/or estoppel, as Registrant's mark has been registered for over three years and Petitioner has taken no action against the '999 Registration until now. Registrant relied on Petitioner's decision not to oppose the application that matured into the '999 Registration to its detriment by continuing to promote and market its mark, and will accordingly be harmed should Petitioner successfully cancel the '999 Registration.

WHEREFORE, Registrant respectfully requests that the Petition be dismissed with prejudice, and such other relief as the Board deems just and proper.

Dated: June 17, 2015.

Respectfully submitted,

/Allison R. Imber/

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Certificate of Service

The undersigned hereby certifies that on this 17th day of June, 2015, a copy of the foregoing was served via first class mail, postage prepaid, on the following:

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/Michele Garcia/

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