

ESTTA Tracking number: **ESTTA678684**

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
Correspondence Address	GUSTAVO ROMER KLEANSMART CORPORATION 7444 NARCOOSSEE ROAD, SUITE 410 ORLANDO, FL 32822 UNITED STATES quinteromendez@yahoo.com
Submission	Other Motions/Papers
Filer's Name	Allison R. Imber
Filer's e-mail	aimber@addmg.com
Signature	/Allison R. Imber/
Date	06/17/2015
Attachments	Showing of Good Cause and M to Accept Cont Filed Answer.pdf(21367 bytes) Exhibits to Good Cause.pdf(3560325 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**

**REGISTRANT’S SHOWING OF GOOD CAUSE AND MOTION TO ACCEPT
CONTEMPORANEOUSLY FILED ANSWER**

Kleansmart Corporation (“Registrant”), by and through its undersigned counsel, hereby moves this Board to accept his contemporaneously filed Answer and shows good cause as to why default should not be entered against it, and in support thereof, states as follows:

I. INTRODUCTION

Registrant is the owner of U.S. Trademark Registration No. 4,040,999 (the “‘999 Registration”) for the mark **KLEANSMART & Design** as used on “carpet and rug cleaning; carpet cleaning; cleaning of clothing; degreasing and cleaning services using solvent and vapor technology; diaper cleaning; drain cleaning services; dry cleaning; leather cleaning and repair; rug cleaning; textile cleaning.” The ‘999 Registration issued on October 18, 2011 and specifies December 1, 2010 as its first use date anywhere and in commerce.

On March 26, 2015, Cleansmart Cleaners, LLC (“Petitioner”) filed a Petition to Cancel against Registrant’s registration on the grounds of alleged priority and likelihood of confusion with U.S. Trademark Application Serial No. 86/314678 (the “‘678 Application”) for the mark

CLEANSMART as specified for use in connection with laundry and dry cleaning services.¹ (Dkt. No. 1). The Board set an answer deadline of May 6, 2015. (Dkt. No. 2).

Upon receiving the Petition to Cancel, Registrant duly attempted to obtain trademark counsel to advise it on its rights and obligations. (Exhibit A, Declaration of Valentina Ivanoff (“Declaration”), ¶1). However, Registrant was unable to procure counsel within the deadline set by the Board to file its answer, and a Notice of Default was entered against it on May 18, 2015. (Dkt. No. 4). The Notice gave Registrant thirty days with which to show good cause pursuant to Fed. R. Civ. P. 55(a) why judgment by default should not be entered. (Dkt. No. 5). Registrant always intended to defend against the cancellation action, and the delay to do was not the result of willful conduct or gross neglect. (Declaration, ¶4). Registrant accordingly respectfully requests the Board set aside the Notice of Default and accept its simultaneously submitted answer setting forth its meritorious defenses to this action.

II. LEGAL STANDARDS

“If a defendant who has failed to file a timely answer to the complaint responds to a notice of default by filing a satisfactory showing of good cause why default judgment should not be entered against it, the Board will set aside the notice of default. TBMP §312.02. Good cause is generally found when “(1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant, (2) the plaintiff will not be substantially prejudiced by the delay, and (3) the defendant has a meritorious defense to the action.” *Id.* Although it is within the sound discretion of the Board whether to enter a default, “the Board must be mindful of the fact that it is the policy of the law to decide cases on their merits.” *Id.* Indeed, “the Board is very reluctant to enter a default judgment for failure to file a timely answer, and tends to resolve any doubt on the matter in favor of the defendant.” At least “one court has held that it is

¹ The ‘678 Application lists May 21, 2008 as its date of first use anywhere and in commerce.

abuse of a court's discretion not to set aside a default when circumstances are such that a plaintiff would not be prejudiced, the defendant has established a meritorious defense and defendant did not engage in willful or bad faith conduct leading to default." *Paolo's Associates Ltd. Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (1990) (citing *Heleasco Seventeen, Inc. v. Drake*, 102 F.R.D. 909, 917 (D. Del. 1984)).

III. ARGUMENT

Registrant's failure to answer in a timely manner was not the product of willfulness, bad faith, or gross neglect; instead, Registrant inadvertently missed its response deadline while attempting to obtain trademark counsel. (Declaration, ¶¶3-4). Registrant always intended to respond to the Petition to Cancel and acted in good faith to procure trademark counsel, which was only retained within the last week. (Declaration, ¶¶3-4). Notably, Petitioner did not send the Petition to Cancel to an attorney, but rather a representative of Registrant whose primary language is not English and who has never been involved in a Trademark Trial and Appeal Board proceeding before. (Declaration, ¶3); *see* Petition to Cancel Certificate of Service.

Moreover, there is no indication that Registrant's delay has resulted in substantial prejudice to Petitioner. The Petition to Cancel was filed less than three months ago, and it was the Board, not Petitioner, which noticed Registrant inadvertently failed to file a timely answer, making it even less likely that Petitioner suffered any prejudice. Moreover, the '678 Application is currently suspended pending the outcome of this proceeding, and there is accordingly no prejudice to Petitioner's prosecution of that application. (Exhibit B, Suspension Notice issued April 17, 2015). Registrant further notes that Petitioner waited until the end of its six-month response period against that application to file the Petition to Cancel, which further belies that the additional minor delay would result in any prejudice to it. (Exhibit C, September 27, 2014

Office Action; Exhibit D, Petitioner's March 26, 2015 Response to Office Action). Further, Registrant has meritorious defenses to this Petition to Cancel, as more fully set forth in its contemporaneously filed Answer, and respectfully requests this Board to keep with its stated policy to decide cases on their merits rather than mere technicalities.

WHEREFORE, Registrant prays that the Board find good cause not to enter a default judgment and accept its contemporaneously filed answer.

Dated: June 17, 2015

Respectfully submitted,

/Allison R. Imber/

Allison R. Imber, Esq.
Stephen H. Luther, Esq.
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 South Orange Avenue
Post Office Box 3791
Orlando, FL 32802
Tel: (407) 841-2330
Fax: (407) 841-2343
aimber@addmg.com
sluther@addmg.com

Attorneys for Registrant

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:

John M. Cone, Esq.
Ferguson, Braswell & Fraser, PC
2500 Dallas Parkway, Suite 501
Plano, Texas 75093

/Michele Garcia/

Michele Garcia

Exhibit A

**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**

DECLARATION OF VALENTINA IVANOFF

I, Valentina Ivanoff, hereby declare and state as follows:

1. I am over 18 years of age and make this declaration based upon my own personal knowledge.
2. My name is Valentina Ivanoff. I am the Administrator of Registrant Kleansmart Corporation ("Registrant").
3. I received Petitioner Cleansmart Cleaners, LLC's Petition to Cancel. Since that time, we have been duly attempting to obtain trademark counsel to advise us on our rights and obligations with respect to the Petition to Cancel.
4. Despite our good faith endeavors, we were unable to procure counsel within the deadline set by the Board to file our answer. Indeed, we only retained trademark counsel within the last week. However, we always intended to defend against this cancellation action. Our delay to file an answer was not the result of willful conduct, bad faith, or gross neglect. Rather, we inadvertently missed our response deadline while attempting to obtain trademark counsel. My primary language is not English and I have never been involved in a Trademark Trial and Appeal Board proceeding before.

I affirm under penalty of perjury that the foregoing statements are true and accurate.

Executed on this __ day of June, 2015.

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "John D. [unclear]".

Exhibit B

To: CLEANSMART CLEANERS, LLC (jccone@hitchcockevert.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86314678 - CLEANSMART - N/A
Sent: 4/17/2015 9:27:32 AM
Sent As: ECOM103@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 86314678

MARK: CLEANSMART

86314678

CORRESPONDENT ADDRESS:

JOHN M. CONE
HITCHCOCK EVERT LLP
PO BOX 131709
DALLAS, TX 75313-1709

GENERAL TRADEMARK INFORMATION
<http://www.uspto.gov/trademarks/index>

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: CLEANSMART CLEANERS, LLC

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

jccone@hitchcockevert.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 4/17/2015

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See 37 C.F.R. §2.67; TMEP §§716 et seq.*

PENDING CIVIL PROCEEDING(S): The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant's mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant's mark under Section 2(d) if it registers, and/or (3) the registrability of applicant's mark. *See 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant's mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).*

- Cancellation No(s). 92061164

The USPTO will periodically conduct a status check of the application to determine whether suspension

remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

/Sung In/
Sung In
Law Office 103
Phone: (571) 272-9097
Fax: (571) 272-9103
Email: sung.in@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: CLEANSMART CLEANERS, LLC (jcone@hitchcockevert.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86314678 - CLEANSMART - N/A
Sent: 4/17/2015 9:27:32 AM
Sent As: ECOM103@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **4/17/2015** FOR U.S. APPLICATION SERIAL NO. 86314678

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see

http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

Exhibit C

To: CLEANSMART CLEANERS, LLC (jcone@hitchcockever.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86314678 - CLEANSMART - N/A
Sent: 9/27/2014 5:31:22 PM
Sent As: ECOM103@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 86314678 MARK: CLEANSMART	*86314678*
CORRESPONDENT ADDRESS: JOHN M. CONE HITCHCOCK EVERT LLP PO BOX 131709 DALLAS, TX 75313-1709	CLICK HERE TO RESPOND TO THIS I http://www.uspto.gov/trademarks/teas/response VIEW YOUR APPLICATION FILE
APPLICANT: CLEANSMART CLEANERS, LLC	
CORRESPONDENT'S REFERENCE/DOCKET NO : N/A CORRESPONDENT E-MAIL ADDRESS: jcone@hitchcockever.com	

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 9/27/2014

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 4040999. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

When comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in their entireties that confusion as to the source of the goods and/or services offered under applicant's and registrant's marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *Edom Labs., Inc. v. Lichter*, 102 USPQ2d 1546, 1551 (TTAB 2012); TMEP §1207.01(b). The focus is on the recollection of the average purchaser, who normally retains a general rather than specific impression of trademarks. *L'Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

In terms of the marks, the proposed mark is CLEANSMART, while the cited mark is comprised of a design of a clothes hanger above the term KLEANSMART in stylized form. Considering that literal elements dominate over design elements, the dominant components of the marks are CLEANSMART and KLEANSMART, which differ only in that the latter begins with K instead of the letter C. Therefore, the marks are similar in sound, appearance, and commercial impression.

In terms of the services, those of the proposed mark are "laundry and dry cleaning services", while those of the proposed mark are "Carpet and rug cleaning; Carpet cleaning; Cleaning of clothing; Degreasing and cleaning services using solvent and vapor technology; Diaper cleaning; Drain cleaning services; Dry cleaning; Leather cleaning and repair; Rug cleaning; Textile cleaning". As the proposed services are encompassed by the cited services, the services of the marks are related such that a likelihood of confusion exists if both marks were used for the respective services.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

/Sung In/

Sung In
Law Office 103
Phone: (571) 272-9097
Fax: (571) 272-9103
Email: sung.in@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

DESIGN MARK

Serial Number

85215945

Status

REGISTERED

Word Mark

KLEANSMART

Standard Character Mark

No

Registration Number

4040999

Date Registered

2011/10/18

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Kleansmart Corporation CORPORATION FLORIDA Suite 410 7444 Narcoossee Road Orlando FLORIDA 32822

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Carpet and rug cleaning; Carpet cleaning; Cleaning of clothing; Degreasing and cleaning services using solvent and vapor technology; Diaper cleaning; Drain cleaning services; Dry cleaning; Leather cleaning and repair; Rug cleaning; Textile cleaning. First Use: 2010/12/01. First Use In Commerce: 2010/12/01.

Description of Mark

The mark consists of the wording "KLEANSMART" with a hanger and a leaf design. The word "KLEAN" is Blue, the wording "SMAR" is Light Green, the letter "T" in "SMART" is white and is shown inside a dark green leaf. The hanger is orange and appears over the wording "KLEANSMART". All the elements in the mark are outlined in Black.

Colors Claimed

The color(s) orange, blue, light green, dark green, white and black is/are claimed as a feature of the mark.

Print: Sep 26, 2014

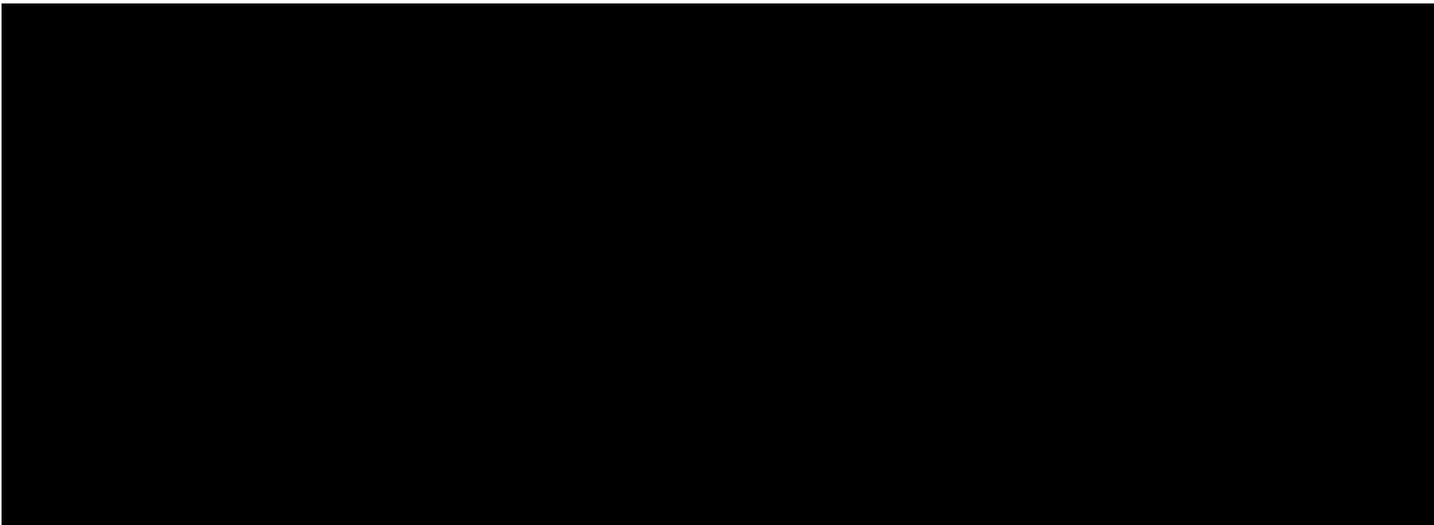
85215945

Filing Date

2011/01/12

Examining Attorney

CLARKE, AISHA



To: CLEANSMART CLEANERS, LLC (jcone@hitchcockevert.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86314678 - CLEANSMART - N/A
Sent: 9/27/2014 5:31:23 PM
Sent As: ECOM103@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **9/27/2014** FOR U.S. APPLICATION SERIAL NO. 86314678

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **9/27/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the

ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

Exhibit D

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86314678
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
Applicant filed a petition for cancellation of cited Registration No. 4040999 for the mark KLEANSMART & Design on March 26, 2015. Applicant requests that its application be suspended pending the disposition of the cancellation action.	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/johnmcone/
SIGNATORY'S NAME	John M. Cone
SIGNATORY'S POSITION	Attorney of Record
SIGNATORY'S PHONE NUMBER	214-880-7002
DATE SIGNED	03/26/2015
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Mar 26 14:51:22 EDT 2015
TEAS STAMP	USPTO/ROA-12.191.28.154-2 0150326145122867072-86314 678-53065d5c524ab1d4ad69c d5a8c76c28d9ade9a39ddc862 123f93cb76ec51a77412d-N/A -N/A-20150326144359681179

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **86314678** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant filed a petition for cancellation of cited Registration No. 4040999 for the mark KLEANSMART & Design on March 26, 2015. Applicant requests that its application be suspended pending the disposition of the cancellation action.

SIGNATURE(S)

Response Signature

Signature: /johnmcone/ Date: 03/26/2015

Signatory's Name: John M. Cone

Signatory's Position: Attorney of Record

Signatory's Phone Number: 214-880-7002

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 86314678

Internet Transmission Date: Thu Mar 26 14:51:22 EDT 2015

TEAS Stamp: USPTO/ROA-12.191.28.154-2015032614512286

7072-86314678-53065d5c524ab1d4ad69cd5a8c

76c28d9ade9a39ddc862123f93cb76ec51a77412

d-N/A-N/A-20150326144359681179