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Filing date: **12/30/2015**

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

Proceeding	92061981
Party	Plaintiff Kosher Supervision Service, Inc.
Correspondence Address	MICHAEL R FRISCIA MCCARTER & ENGLISH LLP FOUR GATEWAY CENTER, 100 MULBERRY STREET NEWARK, NJ 07102-4056 UNITED STATES mfriscia@mccarter.com, crodrigue@mccarter.com, dpopovic@mccarter.com
Submission	Opposition/Response to Motion
Filer's Name	Michael R. Friscia
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Signature	/Michael R. Friscia/
Date	12/30/2015
Attachments	Response to Motion for Sanctions.pdf(47081 bytes) Friscia Declaration in Support of Response to Motion for Sanctions.pdf(52990 bytes)

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

In the Matter of Trademark Registration No.: 3,830,599

For the Mark:



Registration Date: August 10, 2010

KOSHER SUPERVISION SERVICE,)
INC.)

Petitioner,)

v.)

YOEL STEINBERG D/B/A)
CUPK KOSHER SUPERVISION)

Respondent.)

CANCELLATION NO. 92061981

RESPONSE TO MOTION FOR SANCTIONS

Petitioner Kosher Supervision Service, Inc. submits this Response to Respondent's Protest and Motion for Sanctions.

Petitioner filed its Motion to Amend the Pleading ("Motion to Amend") in this proceeding for the sole and valid purpose of correcting a typographical error in Petitioner's name on the Petition for Cancellation ("Petition"). Petitioner and its counsel made no misrepresentations in the Petition or the Motion to Amend and undertook no deception, trickery or concealment.

As stated in the Motion to Amend, Kosher Supervision Services Inc. was the owner name listed on U.S. Registration No. 927,067 at the time the Petition was filed, but this name contained a typographical error. To correct this error, a *nunc pro tunc* assignment, effective December 2, 2003, of U.S. Registration No. 927,067 from Harvey Senter d/b/a Kosher Supervision Service, the original owner of this registration, to Kosher Supervision Service, Inc. was filed and recorded on November 12, 2015 (the “Assignment”). The effect of the Assignment was to make Kosher Supervision Service, Inc. the owner of U.S. Registration No. 927,067 effective December 2, 2003. Petitioner diligently and in good faith filed the Motion to Amend to correct the Petition to reflect the Assignment.

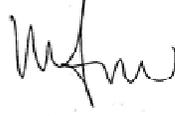
The Assignment is valid. Respondent suggests it is not valid because the notarization on the Assignment may not be valid. Respondent’s argument has no basis, however, because there is no requirement that an assignment be notarized.

Petitioner’s service of the Petition for Cancellation on August 7, 2015 was not defective. Petitioner served Respondent with a complete and exact copy of the Petition that Petitioner filed with the Board, depicting Petitioner’s design marks that form the basis for the Petition. Along with the Petition, Petitioner served Respondent with a copy of the Board’s ESTTA electronic filing receipt, which includes the Petitioner’s registration and application numbers but does not depict the designs for these marks. Including the ESTTA receipt in the service copy did not negate Petitioner’s timely and proper service of the Petition.

Petitioner refrains at this time from commenting on Respondent’s arguments on the merits of the case.

Dated: December 30, 2015

Respectfully submitted,



By:

MICHAEL R. FRISCIA
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4 Gateway Center
Newark, New Jersey 07101-0652
Phone (973) 622-4444

Attorneys for Petitioner

CERTIFICATE OF SERVICE UNDER 37 CFR §§ 2.111

I hereby certify that the foregoing Response to Respondent's Motion for Sanctions has been served via first class mail upon the Respondent on December 30, 2015, at the Respondent's address as reflected in the records of the U.S. Patent & Trademark Office, as follows:

Yoel Steinberg
DBA CupK Kosher Supervision
1823 53rd Street
Brooklyn, New York 11204

Date: December 30, 2015



Michael R. Friscia

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KOSHER SUPERVISION SERVICE,)
INC.)

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YOEL STEINBERG D/B/A)
CUPK KOSHER SUPERVISION)

Respondent.)

CANCELLATION NO. 92061981

DECLARATION OF MICHAEL R. FRISCIA PURSUANT TO 37 C.F.R. 2.20

I, Michael R. Friscia, of full age, hereby declare as follows:

1. I am a member of the law firm of McCarter & English, LLP, counsel for Petitioner Kosher Supervision Service, Inc. (“Petitioner”), and I am authorized to make this Declaration on Petitioner’s behalf.

2. On August 7, 2015, counsel for Petitioner served Respondent via first class mail with a complete and exact copy of the Petition for Cancellation (“Petition”) filed on August 7, 2015 in this proceeding, along with the ESTTA filing receipt that Petitioner received on August 7, 2015 upon filing of the Petition.

3. The copy of the Petition served on Respondent via first class mail on August 7,

2015, depicts Petitioner's design marks  and  that are the subject of U.S. Registration No. 927,067 and U.S. Application No. 86/713,509, respectively, and that form the basis for this cancellation proceeding.

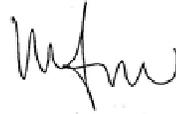
4. Kosher Supervision Services Inc. was listed as a petitioner on the Petition because at the time the Petition was filed, Kosher Supervision Services Inc. was the owner name listed on U.S. Registration No. 927,067, despite the typographical error in this name. Kosher Supervision Service, Inc. was listed as a petitioner on the Petition because Kosher Supervision Service, Inc. was and continues to be the owner of U.S. Application No. 86/713,509.

5. The *nunc pro tunc* assignment, effective December 2, 2003, of U.S. Registration No. 927,067 from Harvey Senter d/b/a Kosher Supervision Service to Kosher Supervision Service, Inc., which was filed and recorded on November 12, 2015 (the "Assignment"), was made to correct a typographical error in the name of assignee on the assignment document that was recorded on February 5, 2004. The name of the assignee on the assignment document recorded on February 5, 2004, was mistakenly written as Kosher Supervision Services Inc. instead of the correct name, Kosher Supervision Service, Inc.

6. Petitioner's Motion to Amend the Pleading ("Motion to Amend") filed in this proceeding on December 2, 2015, was filed for the sole purpose of correcting a typographical error in Petitioner's name on the Petition following the recordation of the Assignment. Specifically, the Motion to Amend seeks to remove the petitioner Kosher Supervision Services Inc. because, with the Assignment, Kosher Supervision Services Inc. does not own U.S. Registration No. 927,067, and the owner of U.S. Registration No. 927,067 from December 2,

2003 to the present is Kosher Supervision Service, Inc.

All of the statements made by me herein are true, and were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration.



Signed: _____

Name: Michael R. Friscia

Dated: 12/30/2015