

ESTTA Tracking number: **ESTTA703431**

Filing date: **10/20/2015**

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

Proceeding	92062012
Party	Defendant Evory Technologies, Inc.
Correspondence Address	CHI LIU EVORY TECHNOLOGIES INC 21001 SAN RAMON VALLEY BLVD, STE A4269 SAN RAMON, CA 94588 UNITED STATES cliu@evorytech.com, liuchi23@hotmail.com
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Chi Liu
Filer's e-mail	liuchi23@hotmail.com
Signature	/LIU, CHI/
Date	10/20/2015
Attachments	Motion.pdf(2357301 bytes)

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

JFP GULF GENERAL TRADING LLC,
Petitioner,
vs.
EVORY TECHNOLOGIES, INC.
Registrant.

Mark: ALISHAN
Cancellation No.: 92062012

REGISTRANT’S MOTION TO DISMISS FOR CANCELLATION NO. 92062012

Registrant Evory Technologies, Inc (“Registrant”) hereby moves to dismiss the cancellation No. 92062012 filed by JFP GULF GENERAL TRADING LLC (“Petitioner”), a company organized in the United Arab Emirates. The Petitioner’s Cancellation No. 92062012 disobeyed the truth and failed to provide any obvious evidence that could support the cancellation. For the reasons that follow, Petitioner’s Cancellation No. 92062012 should be dismissed.

1. Petitioner’s Cancellation No. 92062012 petition to cancel Registrant’s ALISHAN trademark, Registration No. 3,273,480 and Registration No. 3,511,321.
2. Registrant owns two trademarks of ALISHAN, see below :
 - a. ALISHAN, registration No. 3,511,321 in International Class 030 (Allspice; Bagels; Bubble gum; Cakes; Candy; Cappuccino; Chewing gum; Chocolate; Cocoa; Coffee and coffee substitutes; Cookies; Dumplings; Espresso; Filo; Flour; Frozen yogurt; Herb tea; Iced tea; Tea; Tea bags; Tea substitutes; Tea-based beverages with fruit flavoring; Honey; Ice; Ice cream; Ketchup; Lo mein; Muffins; Noodles; Oatmeal; Oolong tea; Pasta; Pies; Pizza; Popcorn; Relish; Rice; Salt; Sandwiches; Sauces; Shakes; Spices; Sugar; Sushi; Tacos; Vanilla; Vinegar; Wafers; Waffles; Bread) (the “Word Mark”).

- b. ALISHAN, registration no. 3,273,480 in International Class 030 (Allspice; Bagels; Bread; Bubble gum; Cakes; Candy; Cappuccino; Chewing gum; Chocolate; Cocoa; Coffee; Cookies; Dumplings; Espresso; Filo; Flour; Frozen yogurt; Herb tea; Honey; Ice; Ice cream; Iced tea; Ketchup; Lo mein; Muffins; Noodles; Oatmeal; Oolong tea; Pasta; Pies; Pizza; Popcorn; Relish; Rice; Salt; Sandwiches; Sauces; Shakes; Spices; Sugar; Sushi; Tacos; Tea; Tea substitutes; Tea-based beverages with fruit flavoring; Vanilla; Vinegar; Wafers; Waffles) (the “Logo Mark”).
3. The Registrant’s ALISHAN trademark, registration No. 3,511,321, registered on October 7, 2008. A Declaration of Use under Sections 8 & 15 was filed on October 6, 2014; the Declaration was accepted and acknowledged on October 14, 2014(See Exhibit A).
4. The Registrant’s ALISHAN, registration No. 3,273,480, registered on August 7, 2007. A Declaration of Use and/or Excusable Nonuse of Mark in Commerce under Section 8 was filed on August 19, 2013; the Declaration was accepted on September 4, 2013(See Exhibit B).
5. Registrant has owned and continuously maintained the website (<http://www.superteastore.com>) to advocate products of ALISHAN® since March 7, 2008 (See Exhibit C).
6. Registrant and Registrant’ related company have used, promoted and advertised ALISHAN registered trademark in commerce no later than 2008 (See Exhibit D).
7. Registrant’s related company, ALGIN Co. Ltd., already sent food samples of ALISHAN® to Petitioner. The samples included ALISHAN chocolate, ALISHAN herbal tea, ALISHAN tea, ALISHAN rice, ALISHAN oatmeal, ALISHAN noodle, ALISHAN coffee, ALISHAN spice, ALISHAN flour, ALISHAN gum, ALISHAN sugar, ALISHAN salt, ALISHAN cappuccino on September 29, 2015 by Post Office Express mail (See Exhibit E).
8. The ALISHAN food samples were already received by Petitioner and signed by M RODE on October 2, 2015 10:12 am. The ALISHAN Food samples included ALISHAN

chocolate, ALISHAN herbal tea, ALISHAN tea, ALISHAN rice, ALISHAN oatmeal, ALISHAN noodle, ALISHAN coffee, ALISHAN spice, ALISHAN flour, ALISHAN gum, ALISHAN sugar, ALISHAN salt, ALISHAN cappuccino on September 29, 2015 by Post Office Express mail (See Exhibit F).

9. Petitioner did not provide any document to support Petitioner's Cancellation No. 92062012.
10. Registrant and Registrant' related company have used, promoted and advertised ALISHAN registered trademark in commerce no later than 2008. There are two invoices showing Registrant sold ALISHAN® food to the third parties in the United States of America during 2014 and 2015 (See Exhibit G).

WHEREFORE, Registrant respectfully prays that:

1. Petitioner's Petition to Cancel Registration No. 3,273,480 and Registration No. 3,511,321 be dismissed and that judgment be entered in Registrant's favor on all claims; and
2. Registrant has such other and further relief as the Board deems just and proper.

Respectfully submitted,
EVORY TECHNOLOGIES, INC.



Dated: October 20, 2015

By: _____

CHI LIU
1270 N. Marine Corp. Dr. Ste. 101-397
Tamuning, Guam 96913-4331
General Manager
Evory Technologies, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing REGISTRANT'S MOTION TO DISMISS FOR CANCELLATION NO. 92062012 was served by Post Office Mail, postage prepaid on October 20, 2015 and E-mail on the same day, addressed as follows:

JFP GULF GENERAL TRADING LLC
548 MARKET STREET BOX NO 55819
SAN FRANCISCO, CA 94104
mike@rodenbaugh.com



CHI LIU

October 20, 2015

List of Exhibits

Exhibit A, The Registrant's ALISHAN trademark, registration No. 3,511,321, registered on October 7, 2008. A Declaration of Use under Sections 8 & 15 was filed on October 6, 2014; the Declaration was accepted and acknowledged on October 14, 2014.

Exhibit B, The Registrant's ALISHAN trademark, registration No. 3,273,480, registered on August 7, 2007. A Declaration of Use and/or Excusable Nonuse of Mark in Commerce under Section 8 was filed on August 19, 2013; the Declaration was accepted on September 4, 2013.

Exhibit C, Registrant's domain name registered by Registrant since March 7, 2008.

Exhibit D, The copy of Registrant's website that shows Registrant have used, promoted and advertised ALISHAN trademark in commerce no later than 2008.

Exhibit E, The copy of Post Office document that shows ALGIN Co. Ltd., already sent ALISHAN food samples to Petitioner on September 29, 2015.

Exhibit F, The confirmation of delivery with Applicant's signature dated October 2, 2015.

Exhibit G, Two copies of Registrant's invoices that shows Registrant sold ALISHAN foods to the third parties in 2014 and 2015 in the United States of America.

From: TMOOfficialNotices@USPTO.GOV
Sent: Tuesday, October 14, 2014 11:00 PM
To: liuchi23@hotmail.com
Subject: Official USPTO Notice of Acceptance/Acknowledgement Sections 8 and 15: U.S. Trademark RN 3511321: ALISHAN

Serial Number: 77365602
Registration Number: 3511321
Registration Date: Oct 7, 2008
Mark: ALISHAN
Owner: EVORY TECHNOLOGIES, INC.

Oct 14, 2014

NOTICE OF ACCEPTANCE UNDER SECTION 8

The declaration of use or excusable nonuse filed for the above-identified registration meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. **The Section 8 declaration is accepted.**

NOTICE OF ACKNOWLEDGEMENT UNDER SECTION 15

The declaration of incontestability filed for the above-identified registration meets the requirements of Section 15 of the Trademark Act, 15 U.S.C. §1065. **The Section 15 declaration is acknowledged.**

The registration will remain in force for the class(es) listed below for the remainder of the ten-year period, calculated from the registration date, unless canceled by an order of the Commissioner for Trademarks or a Federal Court.

Class(es):
030

TRADEMARK SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

REQUIREMENTS FOR MAINTAINING REGISTRATION

WARNING: Your registration will be canceled if you do not file the documents below during the specified time periods.

Requirements in the First Ten Years

What and When to File: You must file a declaration of use (or excusable nonuse) **and** an application for renewal between the 9th and 10th years after the registration date. See 15 U.S.C. §§1058, 1059.

Requirements in Successive Ten-Year Periods

What and When to File: You must file a declaration of use (or excusable nonuse) **and** an application for renewal between every 9th and 10th-year period, calculated from the registration date. See 15 U.S.C. §§1058, 1059.

Grace Period Filings

The above documents will be considered as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

*****The USPTO WILL NOT SEND ANY FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS. THE REGISTRANT SHOULD CONTACT THE USPTO ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.*****

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=77365602>.

NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

From: TMOfficialNotices@USPTO.GOV
Sent: Wednesday, September 4, 2013 11:00 PM
To: cliu@evorytech.com
Subject: Trademark RN 3273480: Official Notice of Acceptance under Section 8 of the Trademark Act

Serial Number: 77011666
Registration Number: 3273480
Registration Date: Aug 7, 2007
Mark: ALISHAN(STYLIZED/DESIGN)
Owner: EVORY TECHNOLOGIES, INC.

Sep 4, 2013

NOTICE OF ACCEPTANCE UNDER SECTION 8

The declaration of use or excusable nonuse filed for the above-identified registration meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. **The Section 8 declaration is accepted.**

The registration will remain in force for the class(es) listed below for the remainder of the ten-year period, calculated from the registration date, unless canceled by an order of the Commissioner for Trademarks or a Federal Court.

Class(es):
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To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=77011666>.
NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

Registrar Info

Name	GODADDY.COM, LLC
Whois Server	whois.godaddy.com
Referral URL	http://registrar.godaddy.com
Status	clientDeleteProhibited http://www.icann.org/epp#clientDeleteProhibited, clientRenewProhibited http://www.icann.org/epp#clientRenewProhibited, clientTransferProhibited http://www.icann.org/epp#clientTransferProhibited, clientUpdateProhibited http://www.icann.org/epp#clientUpdateProhibited

Important Dates

Expires On	March 07, 2016
Registered On	March 07, 2008
Updated On	October 07, 2015

Name Servers

ns1.ipage.com	66.96.142.163
ns2.ipage.com	65.254.254.151

Raw Registrar Data

```
Domain Name: SUPERTEASTORE.COM
Registrar URL: http://www.godaddy.com
Registrant Name: GRANT LIU
Registrant Organization: Evory Technologies, Inc.
Name Server: NS1.IPAGE.COM
Name Server: NS2.IPAGE.COM
DNSSEC: unsigned

For complete domain details go to:
http://who.godaddy.com/whoischeck.aspx?domain=SUPERTEASTORE.COM

Information Updated: Tue, 20 Oct 2015 00:06:06 UTC
```

ALISHAN®



[Alishan Oolong Tea](#)



[Contact Us](#)



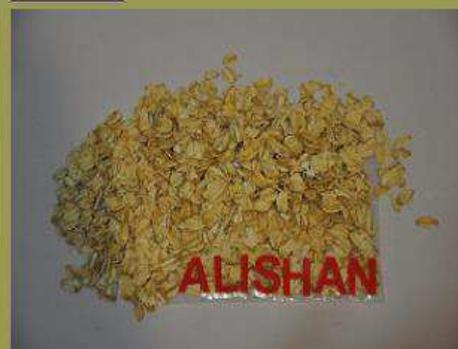
[Best Taste](#)



[Alishan Coffee](#)



[Alishan Chocolate](#)



[Other Alishan Products](#)

ALISHAN®



[Alishan Tea](#)



[Alishan Tea](#)



[Alishan Tea](#)



[Alishan Tea](#)



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ALISHAN®



Alishan Tea



Alishan Tea



Alishan Tea

◀ BACK

ALISHAN®



Alishan Coffee



Alishan Coffee



Alishan Coffee

BACK

ALISHAN®



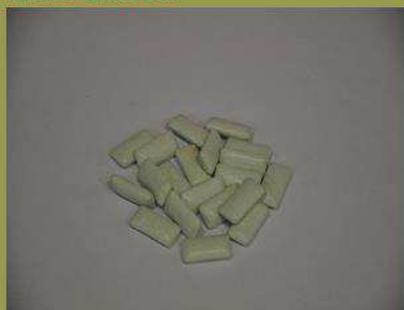
Alishan Chocolate



Alishan Chocolate



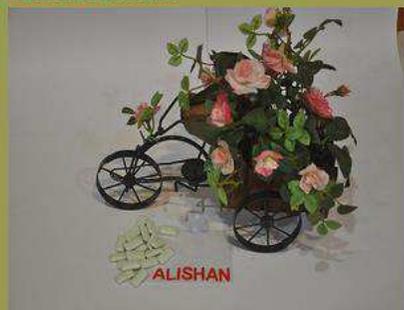
Alishan Chocolate



Alishan Gum



Alishan Gum



Alishan Gum

BACK



Alishan Oatmeal



Alishan Salt



Alishan Sugar



Alishan Spices



Alishan Flour



Alishan Flour



Alishan Rice



Alishan Rice



Alishan Rice



Alishan Noodle



Alishan Noodle



Alishan Foods

ALISHAN®



Best Taste



Best Farm



Alishan Coffee

E-mail:

CS@superteastore.com

Address:

1270 N Marine Corps Dr Ste 101-397

Tamuning, Guam 96913-4331

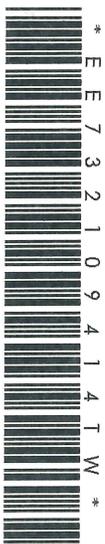
USA

◀BACK



中華郵政
POSTAL ADMINISTRATION
REPUBLIC OF CHINA

國際快捷郵件
EXPRESS MAIL SERVICE



郵件編號 Serial No. EE732109414TW

Contract No. 合約編號 _____
寄件人姓名地址 Sender's name & address

Algin Co., Ltd
332 WenXing Road 8F
KAOHSIUNG TAIWAN ROC

郵遞區號: TAIWAN(804) 電話 Tel: 01-5566193
Postal Code

To: 收件人姓名地址 Addressee's name & address

Nike Rodenbaugh
548 Market Street Box 55819
San Francisco CA 94104

國名 Country: USA
郵遞區號: 94104
Postal Code
電話: 415-7388089
Tel.

Office of Origin 原寄郵局
K.S. 808

Date mailed 交寄日期 (西曆)
2015年(Y) 9月(M) 29日(D)

Postage 郵資
營業郵資券 730 元(NTS)
自備郵資券 _____ 元(NTS)
自備郵票 _____ 元(NTS)

Contents 內裝物品
ALISHAN
Chocolate herbal tea rice
port wine, sugar salt, cornstarch
Flavor glutin sugar salt cornstarch

文件 Documents
 禮品 Gift
 貨樣 Sample
 商品 Merchandise
 其他 Others

I certify that all information provided by me is true and that this article does not contain any hazardous or prohibited item. False information is punishable by law. 茲證明本人所填資料屬實且無裝設任何危險及禁寄之物品，如有不實，願負全部法律責任。
寄件人簽署及日期 _____
Date and sender's signature

Value 價值	Weight 重量
NTS	kg
Dimensions in CM 尺寸(公分)	Vol. wt. 體積重量
Length 長	Width 寬
X	X
Height 高	kg
長x寬x高(公分)/5000=體積重量(公斤)	

Insurance 保價
保價 Yes No

Amount Insured 保額
郵局經辦員簽章
Date 日期
Stamp 戳章
Drawn by 郵局經辦員簽章

電話查詢: (03)383376轉252-254
查詢專線: (02)3833837
查詢網址: www.post.gov.tw
查詢電話: 0800-700-365
日後如需查詢請於交寄之次日起三個月內
之，並將本快捷郵件，並經由寄件人全權保證書。

寄件人聯 SENDER'S COPY (第二聯)

Tracking Number: EE732109414TW



On Time

Expected Delivery Day: Friday, October 2, 2015

Signed for By: M RODE // SAN FRANCISCO, CA 94104 // 10:12 am

Product & Tracking Information

Postal Product:
Priority Mail Express International™

Features:
PO to Addressee

DATE & TIME	STATUS OF ITEM	LOCATION
October 2, 2015, 10:12 am	Delivered	SAN FRANCISCO, CA 94104

Your item was delivered at 10:12 am on October 2, 2015 in SAN FRANCISCO, CA 94104. The item was signed for by M RODE.

October 2, 2015, 9:21 am	Arrived at Post Office	SAN FRANCISCO, CA 94105
October 2, 2015, 7:43 am	Departed USPS Facility	SAN FRANCISCO, CA 94125
October 1, 2015, 11:51 pm	Arrived at USPS Facility	SAN FRANCISCO, CA 94125
October 1, 2015, 10:14 am	Inbound Out of Customs	
October 1, 2015, 2:57 am	Processed Through Sort Facility	ISC SAN FRANCISCO (USPS)
	Inbound into Customs	
	Origin Post is Preparing Shipment	
September 30, 2015, 9:23 am	Processed Through Sort Facility	TAIPEI INT AMF, TAIWAN
September 29, 2015, 10:20 am	Acceptance	TAIWAN

Available Actions

Proof of Delivery ⓘ

Text Updates ⌵

Email Updates ⌵

EVORY TECH

21001 SAN RAMON VALLEY BLVD, STE A4269
SAN RAMON, CA 94588
AR@evorytech.com

INVOICE

Date	Aug 12, 2014
No:	20146218968
Amount:	\$339.99

BILL TO	SHIP TO (if different)
Dainty Products Company 6212 Taokawanna Street Philadelphia, PA 19135	Dainty Products Company 6212 Taokawanna Street Philadelphia, PA 19135

ITEM#	DESCRIPTION	QTY	UNIT PRICE	TOTAL
AL-10001	ALISHAN® Oolong Tea	10LB	\$25.00	\$250.00
AL-10005	ALISHAN® Coffee Bean	2LB	\$35.00	\$70.00
AL-10888	ALISHAN® Food Samples	1BG	\$0.00	\$0.00
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Other Comments or Special Instructions
1. Total payment due in 30 days 2. Please include the invoice number on you check

SUBTOTAL	\$320.00
TAX RATE	-
TAX	-
S & H	\$19.99
OTHER	-
TOTAL	\$339.99

If you have any questions about this invoice, please contact us.

Thank You for Your Business!

EVORY TECH

21001 SAN RAMON VALLEY BLVD, STE A4269
SAN RAMON, CA 94588
AR@evorytech.com

INVOICE

Date	Jan 6, 2015
No:	2015000088
Amount:	\$247.65

BILL TO	SHIP TO (if different)
Dainty Products Company 6212 Taokawanna Street Philadelphia, PA 19135	Dainty Products Company 6212 Taokawanna Street Philadelphia, PA 19135

ITEM#	DESCRIPTION	QTY	UNIT PRICE	TOTAL
AL-10001	ALISHAN® Oolong Tea	5LB	\$25.00	\$125.00
AL-10016	ALISHAN® Oatmeal	10LB	\$10.00	\$100.00
AL-10022	ALISHAN® Noodle	10LB	\$1.00	\$10.00
AL-10888	ALISHAN® Food Samples	1BG	\$0.00	\$0.00
———	(Samples including : Cappuccino, Chocolate; Cocoa; Cookies; Flour; Honey; Ketchup; Rice; Salt; Sauces; Shakes; Spices; Sugar)			

Other Comments or Special Instructions
1. Total payment due in 30 days 2. Please include the invoice number on you check

SUBTOTAL	\$235.00
TAX RATE	-
TAX	-
S & H	\$12.65
OTHER	-
TOTAL	\$247.65

If you have any questions about this invoice, please contact us.

Thank You for Your Business!