

**In the United States Patent and Trademark Office Before
the Trademark Trial and Appeal Board**

**Response to the Petition to Cancel Mark Tai Chi Green Tea & Yin-Yang
Symbol (Reg. NO. 4,114,136) by Diamond Hong, Inc
& H &C Trading Co. Inc (Reg. No. 3,966,518)**

Tai Chi Green Tea Inc

Registrant of Reg. NO. 4,114,136 (Cancellation No. 92062714) — 85 327 448
Cai, Zheng

V.

Diamond Hong, Inc & H &C Trading Co. Inc.
Registrant Of Reg. No. 3,966,518

Dear Examination Attorney and Trial and Appeal Board,

We got the letter from the petitioner that stated our trademark may cause confusion with theirs. We believe we do not need to respond and the Trial and Appeal Board will reject their request, but still we cannot help to say something.

1. The Petitioner intentionally made a copy of our trademark in black and white to deceive the examination attorney and the appeal board to believe that our trademarks bears similarity to theirs and will possibly cause "confusion" with theirs. In fact, our trade mark is green and white. Green color is the most significant part of our trademark since our product is green tea. No one with normal eyesight could simply tell the sharp and striking difference between our mark and theirs.



01-04-2016

U.S. Patent & TMO/TM Mail Rpt Dt. #11



2. The petitioner claimed that “the words Wu Dang meaning a form of martial arts ” . This is misleading, deceptive and fraudulent in the attempt to deceive the Trial and Appeal Board to believe “the similarity” of our mark and theirs. Anyone in China know that Wu Dang refers to Wu Dang Mountain, which is a located in Hubei province, where our tea is selected. And Wu Dang Mountain is famous for its Taoism temple. Though Wu Dang mountain, like Shaolin Mountain and some other big mountains, has its own martial arts style (Just like different areas have different styles of cusines), which is called “Wu Dang Chuan” (Wu Dang Boxing or Wu Dang Fist) (**Exhibit 1: What Wu Dang Means.** https://en.wikipedia.org/wiki/Wudang_Mountains), Wu Dang always refer to Wu Dang Mountain, just like Beijing refers to Beijing City, the capital of China, not Beijing Duck, though Beijing Duck is associated with Beijing. To say “the words Wu Dang meaning a form of martial arts”, just like saying “Beijing meaning a kind of roasted duck”.

The words “Wu Dang” is a registered trademark of ours (**Exhibit 2: Wu Dang , Reg. No. 3,921,201, Feb. 15, 2011.** Available <http://tmsearch.uspto.gov/bin/jumpton?f=doc&state=4802:z761mj.11.2>)

3. The petition says our products will cause confusion with theirs due to “ the identical nature of the tea goods offered under the marks” . In fact, they sell “Herbal teas, Herbal food Beverages”, and we only sell “Green Tea, tea bags”, though we are in the same class “30”, “Herbal teas” and “green Tea, tea” are totally different products. Herbal teas and green tea (woolong tea, black tea) are mutually exclusive. To say “herbal teas” have the “identical nature” as “green tea, tea” is misleading, deceptive and fraudulent.

- A. According to the USA Tea Association, green tea, oolong tea, black tea are all comes from one single plant *Camellia Sinensis*, herbal teas could come from any plants but *Camellia Sinesis*. (**Exhibit 3: Definition of tea and herbal teas from USA Tea Association**, <http://www.teausa.com/10017/about-tea>)

“All tea comes from the *Camellia sinensis* plant, a warm-weather evergreen.

How the fresh leaves of the tea plant are processed and their level of contact with oxygen determine resulting types of tea. During oxidation, tea leaves undergo natural chemical reactions that result in distinctive color and taste characteristics. Green tea is not oxidized at all—the leaves are steamed, rolled and dried while black tea is allowed to oxidize for two to four hours. Oolong tea falls somewhere between green and black teas, in that the leaves are only partially oxidized.

Herbal teas do not come from *Camellia sinensis*, but are an infusion of leaves, roots, bark, seeds or flowers of other plants. They lack many of the unique characteristics of tea and are not linked with the research on the potential health benefits of traditional teas.”

- B. **In Harvard Law School’s Digital Access Scholarship at Harvard Law School, it has the same definition about tea and herbal tea (The article titled “The Regulation of Tea and Its Health-Related Claims in the Wake of Developing Scientific Evidence: Food, Drug, or Dietary Supplement”**
<https://dash.harvard.edu/bitstream/handle/1/8852111/Pirina.pdf?sequence=1>, Page 9, “Tea Production and Types of Tea” . See **Exhibit 4**)

“All tea is a product of the *Camellia sinensis* plant and is usually divided into three main groups: Green, Oolong, and Black.[12] Herbal Teas are made from a variety of plants and leaves other than *Camellia sinensis*, and although they are referred to as “tea” they are technically only herbal infusions.[13] “Herbal teas are not actually tea because they are not made from the *Camellia sinensis* plant, but instead are infusions of other plants in hot or boiling water. P.

- C. **Wilkd dictionary has similar definition about tea**
(<https://en.wikipedia.org/wiki/Tea>) :

“Tea is an aromatic beverage commonly prepared by pouring hot or boiling water over cured leaves of the *Camellia sinensis*, an evergreen shrub native to Asia.^[3]”

The phrase herbal tea usually refers to infusions of fruit or herbs made without the tea plant, such as steepings of rosehip, chamomile, or rooibos. These are also known as *tisanes* or *herbal infusions* to distinguish them from "tea" as it is commonly construed.

Tea is the most popular drink second only to water in the world. Whenever we simply say tea, we are referring to green tea, black tea or wulong tea or its derived forms. For instance, when we say that tea ignited the Independence Movement of United States (Boston Tea Party) – the “tea” is the processed leaves from *Camellia Sinensis*. When we say “tea culture” we mean that the culture that values tea and consuming tea (not “herbal tea”). When people talk about tea ceremony, we are talking about a ceremony that serving and drinking tea (green tea, black tea or its kind), not “herbal tea”. In all, whenever people just talk about tea, we mean the leaves from the tiny ever-green bush – *Camellia Sinensis*. Herbal tea could come from any plants other than *Camellia Sinensis*.

Green tea (wulong tea, black tea) is generally recognized as safe (GRAS), FDA does not require any further labeling for green tea (wulong tea, black tea), everyone knows that green tea, black tea, wulong tea come from a single source: *Camellia Sinensis* (or called *Thea Sinensis*). But herbal teas are different, some herbal teas may cause health problems and “can be extremely dangerous and in some cases can be fatal if misused” (**Exhibit 5**). And FDA’s regulation has eliminated any possibility that people will confuse “herbal teas” with tea (green tea, wulong tea, black tea), FDA requires that herbal teas must be clearly labeled with the herb names in front of the three letters “tea” :

“The FDA allows these herbal products to call themselves “tea” as long as they include the name of the plant before the word “tea” to distinguish themselves from traditional tea or flavored tea.”

(<https://dash.harvard.edu/bitstream/handle/1/8852111/Pirina.pdf?sequence=1>, Page 9. Note 13. Also see **Exhibit 4**).

That means, say, if the “herbal tea” is made from rosehip, the manufacturer must name it “rosehip tea”, if it is made of chrysanthemum, it must be labeled as “Chrysanthemum Tea”. Any name of herbal tea must have the plant in front of it to differentiate it from the tea (green tea, wulong tea, black tea, white tea). Otherwise, it could not be put in the market. No one will confuse **rosehip tea**, Chrysanthemum Tea with green tea.

Herbal teas are not Generally Recognized Safe because “herbal teas can be extremely dangerous and in some cases can be fatal if misused (**Exhibit 5 P. 33**. <https://dash.harvard.edu/bitstream/handle/1/8852111/Pirina.pdf?sequence=1>.” No

sellers are allowed to confuse herbal teas with green tea or tea (woolong tea, black tea, white tea). FDA simply prohibit it. **It is illegal to disguise herbal teas as green tea. Green tea (tea) is considered generally recognized as safe (GRAS), thus it is categorized as food in the US. Sine it is food, in many states (like in Michigan state) where food is free of sale tax, green tea is free of sale tax, and all across the country, customers can buy green tea with food stamps since it is food, but herbal teas were categorized as “supplement” or even drugs, there is a sale tax on it and you cannot buy it with food stamps across the US.**

As said above, we sell green tea, a totally different product from the petitioner’s “herbal teas”, no one could possibly confuse green tea with herbal teas. It is simply illegal for the sellers of herbal teas to confuse herbal teas with green tea (woolong tea, black tea) in the market. Thus to claim that our product green tea will cause confusion with their “tea products” “tea goods”, which are herbal teas as shown on their registered mark, is misleading, deceptive and even fraudulent in the attempt to confuse the examination attorney and the Trial and Appeal Board.

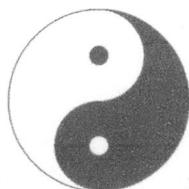
4. The petitioner says that we should not be allowed to have Yin-Yang design in our mark for the registrant (Reg.No 3,966,518) has already partially adopted the Tai Chi Graph (Taiji Tu) or Yin-yang symbol in their mark. They sound like that they created the Tai Chi Graph (yin-yang symbol) and thus has the exclusive right to it, just like one’s mark has a circle in it and because of that none should be allowed to use any shape similar to a circle for they owns the exclusive right of all shapes similar to a circle, or since they have a human in their design so that none should be allowed to have a human in their mark!



What we should know is that Tai Chi Grahp (taiji tu), the yin-yang symbol is the logo of Taoism religion and it has been created for hundreds of years. It is not the registrant’s invention or creation.

We adopted Tai Chi Graph which represents “extreme ultimate” “extremely superior” and means the absolute harmony of Yin and Yang (negative and positive), and changed the black part of it to be green to symbolize our product green tea, and the white part symbolizes water. The whole design means “the Top Green Tea helps keeping the balance of the body”.

Our mark is so uniquely designed to incorporating Tai Chi Graph and our goods green tea into one. Anyone with a glance at our trademark will be impressed and know what goods we are providing. Our mark with the design so sharply distinguishes itself from any marks ever registered, including the registrant's.



We first used this design no later than June 8, 2005 and we registered this design (**Exhibit 6: The Registered Mark of Our Design. Reg. NO. 3,958,979. Registered May 10, 2011. Online: <http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4802:z761mj.7.2>**)

5. The petitioner still tries to deceive the Trial and Appeal Board that their definition of Tai Chi (Taiji) is authoritative and expect that till now none in the appeal board would possibly know the true meaning of Tai Chi, to keep the word "Tai Chi (Taiji)", a descriptive word, to be registrable, so they could have exclusive usage of the word "Tai Chi (taiji)".

First of all, we must know that Tai Chi, Taiji, 太极, 太極 are all meaning the same. The original word is the Chinese word "太極".

Anyone who has basic knowledge of Chinese language will know that "Tai Chi" is an adjective in the first place and simply means "the supreme ultimate", "the very top", "the extremely superior" and etc.

Tai Chi is also an abbreviation of "Tai Chi Chuan" (in Chinese 太极拳 Taiji Chuan), a kind of martial arts form or boxing. "Tai Chi Chuan" means "the extremely superior boxing" in Chinese (Chuan 拳, means 'boxing'). "Tai Chi Chuan" (in Chinese 太极拳) only existed for a few hundred years. But the wording "Tai Chi" has been existed in Chinese language for several thousand years. Its meaning will not be changed over time and geography. One thousand years ago, now, in the future, in Britain, in the United States, in Canada or in any other places around the world, it will have the same meaning, which means "supreme ultimate", "extremely superior" "very top", "incomparable" and so on in the first place.

If we really want to know a foreign word's meaning, we need to go to an authoritative source to seek for it. If we look into a small dictionary like a collegiate dictionary, we would

not even find the words “Tai Chi”; even so, we could not come to the conclusion that the words “Tai Chi” are created by the registrant.

Oxford English Dictionary is an authoritative dictionary in English world. The following is an excerpt from Oxford English Dictionary online (**Exhibit 7: Definition of Tai Chi in Oxford English Dictionary**). Now to access OED online you need to subscribe to it, we kept a copy of the printout of the definition obtained in 2007):

“T’ai Chi

Also Tai Chi, t’ai chi, etc. [**ad.** Chinese taiji, f. *tai* extreme+*ji* limit]

1. In Taoism and Neo-Confucianism, the **Supreme Ultimate** (see *quata*. 1955). Also, **the symbol which represents this.**”
2. In full T’ai Chi Ch’uan, a Chinese martial art, believed to have been devised by a Taoist priest in the Sung dynasty (960-1279), promoting meditative as well as physical proficiency.

”

Even a casual search online about Tai Chi (Taiji), we will find some clear definition of it ([https://en.wikipedia.org/wiki/Taiji_\(philosophy\)](https://en.wikipedia.org/wiki/Taiji_(philosophy)) **Exhibit 8: Definition of Tai Chi (Taiji) from Wikid**):

Taiji (太極) is a compound of *tai* 太 "great; grand; supreme; extreme; very; too" (a superlative variant of *da* 大 "big; large; great; very") and *ji* 極 "pole; roof ridge; highest/utmost point; extreme; earth's pole; reach the end; attain; exhaust". In analogy with the figurative meanings of English *pole*, Chinese *ji* 極 "ridgepole" can mean "geographical pole; direction" (e.g., *siji* 四極 "four corners of the earth; world's end"), "magnetic pole" (*Beiji* 北極 "North Pole" or *yinji* 陰極 "negative pole; cathode"), or "celestial pole" (*baji* 八極 "farthest points of the universe; remotest place"). Combining the two words, 太極 means "the source, the beginning of the world".

Common English translations of the cosmological *Taiji* are the "Supreme Ultimate" (Le Blanc 1985, Zhang and Ryden 2002) or "Great Ultimate" (Chen 1989, Robinet 2008); but other versions are the "Supreme Pole" (Needham and Ronan 1978), "Great Absolute", or "Supreme Polarity" (Adler 1999).

Obviously, now Americans know the meaning of Tai Chi. In the USPTO's database, several people are trying to register marks that includes the two words "Tai Chi":

Serial # 78921905 (Tai Chi) and # 76193753 (Tai Chi Scoot) and Serial Number 75355998 (Golden Tai Chi) (All the following Trademarks could be located from USPTO data base).

Example A (Exhibit 9:

<http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4802:z761mj.8.1>)

Serial # 78921905. Tai Chi

Word Mark Tai Chi

Translations The foreign wording in the mark translates into English as Grand Ultimate or Supreme Ultimate.

Example B. (<http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4802:z761mj.9.1>)

Serial # 76193753 Tai Chi Scoot

Word Mark Tai Chi Scoot

Translations The English transliteration and translation of the Chinese characters appearing in the mark are as follows: "tai" is "highest, greatest, remotest, too, over, extremely, very" and "chi" is "the utmost point, extreme, pole".

Example C

(<http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4802:z761mj.10.1>)

Serial Number 75355998

Word Mark Golden Tai Chi

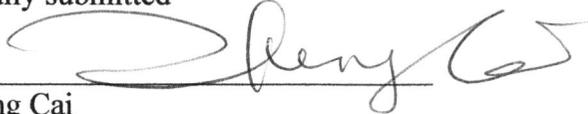
Translations The English translation of "Tai Chi" in the mark is "supreme ultimate"

Thus the registration of Tai Chi (Reg. Nos 2449,580 and 3,966,518) were mistakes due to the petitioners' deceptive, misleading and fraudulent definition of the word "Tai Chi" and the then examination attorney's lack of knowledge of Chinese language and culture. The mistakes should be corrected at the time when American people get to know more and more about Chinese language and culture. Therefore, USPTO should revoke or cancel the registration of "Tai Chi" (Reg. Nos 2449,580 and 3,966,518) due to the petitioner's continuous attempt to deceive the examining attorney and the trial and appeal board by tailoring the meaning of Tai Chi to suit their need to make "Tai Chi", a descriptive word, registerable. Instead, they may be allowed to register "Tai Chi Chuan" as what they meant to show on their mark.

As illustrated above, our mark is so sharply different from the petitioner's in terms of general impression, goods, wording and design, there is no any confusion existed between our marks and

theirs. The petitioner is having an argument for the argument's sake. It is wasting their time, our time and the examination attorneys' and the Trial and Appeal board's precious time. All their statements claiming that our mark, wording, design, products will cause confusion with theirs are misleading, deceptive, and fraudulent. We believe the Trial and Appeal Board will make a swift decision to deny their appeal.

Respectfully submitted

By  12/30/15
Zheng Cai

Owner of Wu Dang Tai Chi Green Tea, Reg. NO. 4,114,136.

352 S Barnswallow Lane, Vernon Hills, IL 60061

Tel: 847-387-9327

Email: zanecai@yahoo.com

Exhibits:

- Exhibit 1: What Wu Dang Means;
- Exhibit 2: Our Registered Mark "Wu Dang". Reg. No. 3,921,201;
- Exhibit 3: Definition of tea and herbal teas from USA Tea Association
- Exhibit 4: Definition of Tea and Herbal Teas from DASH at Harvard Law School;
- Exhibit 5: Herbal teas can be extremely dangerous;
- Exhibit 6: The Registered Mark of Our Design. Reg. NO. 3,958,979;
- Exhibit 7: Definition of Tai Chi in Oxford English Dictionary;
- Exhibit 8: Definition of Tai Chi from Wikd;
- Exhibit 9: Definition of Tai Chi from USPTO database.

Notes:

1. A Hard Copy of the Exhibits with the response will be sent to USPTO and the Petitioner via US Post Service while an electronic version of the response will be filed via USPTO's webpage without the exhibits)

2. All the above exhibits could be accessed online except Exhibit 7. To access Oxford English Dictionary online requires a subscription.

Certificate of Service

I hereby certify that a copy of the foregoing RESPONSE TO CANCELLATION was served on:

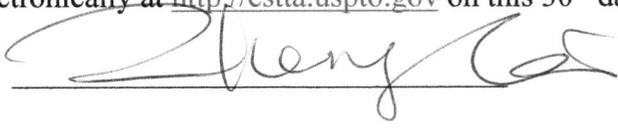
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By

 12/30/15

Name : Zheng Cai

Wudang Mountains

Exhibit 1

From Wikipedia, the free encyclopedia

This article is about the Wudang region in Hubei, China. For other uses, see Wutang.

The **Wudang Mountains** (simplified Chinese: 武当山; traditional Chinese: 武當山; pinyin: *Wūdāng Shān*) consist of a small mountain range in the northwestern part of Hubei, China, just south of Shiyan. They are home to a famous complex of Taoist temples and monasteries associated with the god Xuan Wu. The Wudang Mountains are renowned for the practice of Taichi and Taoism as the Taoist counterpart to the Shaolin Monastery, which is affiliated with Chinese Chán Buddhism.

Contents [hide]

- Geography
- History
- Association with martial arts
- Gallery
- See also
- References
- Bibliography
- External links

Geography [edit]

On Chinese maps, the name "Wudangshan" (Chinese: 武当山) is applied both to the entire mountain range (which runs east-west along the southern edge of the Han River, crossing several county-level divisions of Shiyan), and to the small group of peaks located within Wudangshan subdistrict of Danjiangkou, Shiyan. It is the latter specific area which is known as a Taoist center.^[1]

Modern maps show the elevation of the highest of the peaks in the Wudang Shan "proper" as 1612 meters;^{[1][2]} however, the entire Wudangshan range has somewhat higher elevations elsewhere.^[1]

Some consider the Wudang Mountains to be a "branch" of the Daba Mountains range,^[2] which is a major mountain

UNESCO World Heritage Site

Ancient Building Complex in the Wudang Mountains

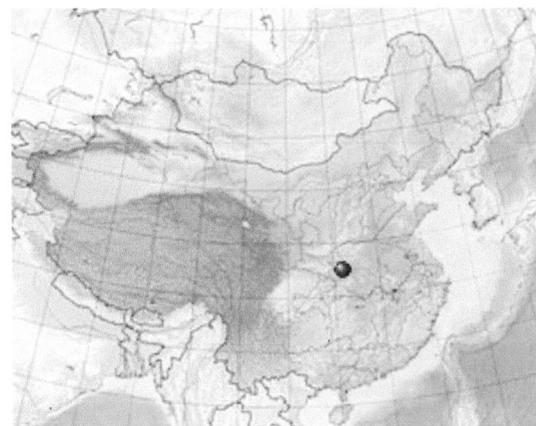
Name as inscribed on the World Heritage List



Type	Cultural
Criteria	i, ii, vi
Reference	705
UNESCO region	Asia

Inscription history

Inscription 1994 (18th Session)



Location of Wudang Mountains in China.

Wudang Mountains

Traditional Chinese	武當山
Simplified Chinese	武当山

Transcriptions [show]



United States Patent and Trademark Office

Exhibit 2

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Wu Dang

Word Mark	WU DANG
Goods and Services	IC 030. US 046. G & S: Beverages made of tea; Green tea; Tea; Tea bags; Tea-based beverages. FIRST USE: 20100601. FIRST USE IN COMMERCE: 20100601
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85012788
Filing Date	April 13, 2010
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 12, 2010
Registration Number	3921201
Registration Date	February 15, 2011
Owner	(REGISTRANT) Cai, Zheng INDIVIDUAL UNITED STATES 352 S Barnswallo Lane Vernon Hills ILLINOIS 60061
Type of Mark	TRADEMARK
Register	PRINCIPAL
Other Data	"Wu Dang" does not identify a living individual.

A Tea By Any Other Name . . .

All tea comes from the *Camellia sinensis* plant, a warm-weather evergreen. How the fresh leaves of the tea plant are processed and their level of contact with oxygen determine resulting types of tea. During oxidation, tea leaves undergo natural chemical reactions that result in distinctive color and taste characteristics. Green tea is not oxidized at all—the leaves are steamed, rolled and dried while black tea is allowed to oxidize for two to four hours. Oolong tea falls somewhere between green and black teas, in that the leaves are only partially oxidized.



Tea is grown in thousands of tea gardens or estates around the world, resulting in thousands of flavorful variations. Like wines, each tea takes its name from the district in which it's grown, and each district is known for producing tea with unique flavor and character. Tea is also divided by grades, determined by leaf size. Smaller sized leaves are used in tea bags while the larger sized leaves can be found in packaged loose tea.

Herbal teas do not come from *Camellia sinensis*, but are an infusion of leaves, roots, bark, seeds or flowers of other plants. They lack many of the unique characteristics of tea and are not linked with the research on the potential health benefits of traditional teas.

beginning in the mid-1500's.⁹ From there it spread through the social elite to France and, eventually, to England in the 1650's.¹⁰ By 1669 the British East India Company was transporting tea from China to England, and by 1721 it became the monopolist in the trade.¹¹ At this time tea was also being imported into the American colonies from China via England.

B. Tea Production and Types of Tea

All tea is a product of the *Camellia sinensis* plant and is usually divided into three main groups: Green, Oolong, and Black.¹² Herbal Teas are made from a variety of plants and leaves other than *Camellia sinensis*, and although they are referred to as "tea" they are technically only herbal infusions.¹³ The principal difference between the three types of tea is the length of time the leaves undergo fermentation.¹⁴ Green tea is unfermented, oolong partially fermented, and black tea fully fermented.¹⁵ All tea is plucked from the plant

⁹ROY MOXHAM, TEA: ADDICTION, EXPLOITATION AND EMPIRE 16-17 (2003).

¹⁰Even then tea was seen as being related to health, and the first dated reference to tea, in an advertisement in a London newspaper, stated it was "by all Physicians approved." *Id.* at 17-18.

¹¹The Story of Tea, available at: http://www.greentea.com/tw_storyoftea.html.

¹²Additionally a fourth category might be white tea, which is considerably more expensive. Also unfermented, white tea is steamed before it is withered and contains a higher proportion of buds along with the leaves, separating it from green tea. New health claims about white tea have emerged recently. See, e.g., Is White Tea Better Than Other Teas as a Potential Anticarcinogen?, available at: <http://lpi.oregonstate.edu/new/whitetea.html>; A Perfect World: Intensely hydrating body cream with white tea, available at: http://www.origins.com/templates/products/sp_nonshaded.tpl?CATEGORY_ID=CATEGORY5732&PRODUCT_ID=PROD219.

¹³The FDA allows these herbal products to call themselves "tea" as long as they include the name of the plant before the word "tea" to distinguish themselves from traditional tea or flavored tea. CTR. FOR FOOD SAFETY & APPLIED NUTRITION, U.S. FOOD & DRUG ADMIN., WHAT GUIDANCE DOES FDA HAVE FOR MANUFACTURERS OF TEA? (1997), available at: <http://www.cfsan.fda.gov/~dms/qa-ind5o.html>.

¹⁴The Chinese technique for classifying tea is actually much more complicated than this triad. Chinese further classify their tea much like Europeans classify wines: tea is categorized by the variety of the bush, shape and size of the leaf, method of manufacturing, season of plucking, region of production, scale of production, market destination, color, aroma, and taste. See DAN M. ETHERINGTON AND KEITH FORSTER, GREEN GOLD: THE POLITICAL ECONOMY OF CHINA'S POST-1949 TEA INDUSTRY 15-16 (1993). Furthermore, in China, western professional tea tasters and buyers in the nineteenth century took a minimum of five to six years to acquire their credentials. See ROBERT GARDELLA, HARVESTING MOUNTAINS: FUJIAN AND THE CHINA TEA TRADE, 1757-1937 10 (1994). The complexity of tea classification is further evidenced by the old Fujian saying translated as: "Even though one studies the tea industry until old age, one can never learn all the names of types of tea." *Id.*

¹⁵Fermentation occurs when chemical compounds called polyphenols are oxidized by an enzyme in the tea plant.

would only be exacerbated by consuming caffeine from tea. Many are quick to point out, however, that tea contains much less caffeine than coffee, approximately 40mg for a cup of tea compared to about 100mg for a cup of coffee,¹²⁷ and therefore it is not really a significant problem because many people have caffeine in their regular diets. Additionally, many people deliberately drink caffeine as a stimulant to promote alertness, and in this case, the side effect of tea is actually a positive one.

Second, herbal teas can be extremely dangerous and in some cases can be fatal if misused. The harmful physical effects of herbal teas are worth detailing because they are, unfortunately, too common. Laxative or weight-loss teas, like those containing senna, aloe, or buckthorn, are potentially fatal.¹²⁸ If overused (by either steeping the teas for too long or by drinking too many servings of the teas) they can cause diarrhea, vomiting, nausea, stomach cramps, constipation, fainting, and death.¹²⁹ The FDA has received many reports and complaints about these effects of dieter's teas.¹³⁰ To make matters worse, the FDA states that laxatives act on the colon, not on the small intestine where calories are absorbed, and therefore are not even effective at promoting weight loss.¹³¹ Therefore, people who use these teas to help them lose weight may unknowingly be putting themselves at great risk for a product that does not even work for its intended use. Furthermore, people with eating disorders such as bulimia and anorexia nervosa may try to use these herbal teas to quickly excrete any food they eat and cleanse their body, which only furthers their disease and puts them at serious risk.¹³² The FDA reports that four women's deaths have been linked to using laxative tea while suffering from an eating disorder.¹³³

¹²⁷ Segal, *supra* note 4; Tea and Bone Health, *supra* note 93.

¹²⁸ See Kurtzweil, *supra* note 102.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

Exhibit 6



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Goods and Services IC 030. US 046. G & S: Beverages made of tea; Black tea; Green tea; Oolong tea; Tea bags; Tea-based beverages. FIRST USE: 20050608. FIRST USE IN COMMERCE: 20100701

Mark Drawing Code (2) DESIGN ONLY

Design Search Code 24.17.18 - Yin-Yang symbol

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Original Filing Basis 1B

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Exhibit 7

||T'ai Chi

SECOND EDITION 1989

(taɪ ˈtʃiː) Also **Tai Chi**, **t'ai chi**, etc. [ad. Chinese *tàiji*, f. *tài* extreme + *jí* limit.]

1. In Taoism and Neo-Confucianism, the Supreme Ultimate (see quot. 1955). Also, the symbol which represents this.

1736 R. BROOKES tr. *Du Halde's Gen. Hist. China* III. 54 They give the first Principle of all things the Name of *Tai ki*. **1845** *Encycl. Metrop.* XVI. 568/2 *T'hai-kǎ* (the Great Summit) the soul of the universe, when in motion..produced *Yang*, the living principle; when at rest, *Yn*, the dead principle, the one perfect and male, the other imperfect and female; from the union of which the elements sprang. **1914** D. T. SUZUKI *Brief Hist. Early Chinese Philos.* 161 The term, *T'ai Chi*, first appears in one of the Confucian Appendices to the 'Yi Ching'. 'In the system of the Yi there is the Great Ultimate (or source or limit, *t'ai chi*).' **1931** A. U. DILLEY *Oriental Rugs & Carpets* (caption to Pl. 63), The centre circle or *Tae-keih* (Great All) contains Yin (female) and Yang (male). **1955** E. HERBERT *Taoist Notebk.* 3 *T'ai Chi* was presented as the starting-point, which was also the finishing-point, of a cosmic process: a cyclic process of constant change, in the course of which were produced in turn the linked principles of *Yang* and *Yin*..the *Wu Hsing* or Five Elements..and all forms and existences in the material world. **1960** C. WINICK *Dict. Anthropol.* 523/1 *T'ai chi*, in Chinese art, the symbol of the Great Absolute. It consists of a wavy or double curved line bisecting a circle, one half of which is red..and the other black. **1962** E. SNOW *Other Side of River* (1963) I. 338 Tao is the Absolute that contains the total life force, or *T'ai Chi*.

2. In full *T'ai Chi Ch'uan* [Chinese *quán fist*], a Chinese martial art, believed to have been devised by a Taoist priest in the Sung dynasty (960-1279), promoting meditative as well as physical proficiency.

1962 E. SNOW *Other Side of River* (1963) ii. 24 Servants don't spend their idle time playing mah-jongg now but sit by the bell boards studying English or Russian, or other textbooks, getting ready for after-hours classes; or they do *t'ai chi ch'uan* calisthenics. **1968** *Times* 22 Nov. 9 Embrace Tiger and Return to Mountain it is called, this being the name of one exercise in *T'ai-chi*, a Chinese system of callisthenics claimed to produce pliability, health and peace of mind. **1972** DA LIU *T'ai Chi Ch'uan & I Ching* p. v, The movements of *T'ai Chi Ch'uan* and the hexagrams upon which they are based are both methods of describing the circulation of psychic energy in the body of the meditator. **1979** P. DRISCOLL *Pangolin* I. xx. 147 Kids were doing *Tai Chi* exercises and playing soccer.

Etymology [edit]

The word 太極 comes from *I Ching*: "易有太極，是生兩儀，兩儀生四象，四象生八卦，八卦定吉凶，吉凶生大業。"

Taiji (太極) is a compound of *tai* 太 "great; grand; supreme; extreme; very; too" (a superlative variant of *da* 大 "big; large; great; very") and *ji* 極 "pole; roof ridge; highest/utmost point; extreme; earth's pole; reach the end; attain; exhaust". In analogy with the figurative meanings of English *pole*, Chinese *ji* 極 "ridgepole" can mean "geographical pole; direction" (e.g., *siji* 四極 "four corners of the earth; world's end"), "magnetic pole" (*Beiji* 北極 "North Pole" or *yinji* 陰極 "negative pole; cathode"), or "celestial pole" (*baji* 八極 "farthest points of the universe; remotest place"). Combining the two words, 太極 means "the source, the beginning of the world".

Common English translations of the cosmological *Taiji* are the "Supreme Ultimate" (Le Blanc 1985, Zhang and Ryden 2002) or "Great Ultimate" (Chen 1989, Robinet 2008); but other versions are the "Supreme Pole" (Needham and Ronan 1978), "Great Absolute", or "Supreme Polarity" (Adler 1999).

Taiji in Chinese texts [edit]

Taiji references are found in Chinese classic texts associated with many schools of Chinese philosophy.

Zhang and Ryden explain the ontological necessity of *Taiji*.

Any philosophy that asserts two elements such as the *yin-yang* of Chinese philosophy will also look for a term to reconcile the two, to ensure that both belong to the same sphere of discourse. The term 'supreme ultimate' performs this role in the philosophy of the *Book of Changes*. In the Song dynasty it became a metaphysical term on a par with the Way. (2002:179)

Zhuangzi [edit]

Exhibit 9



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TAI CHI

Word Mark TAI CHI

Translations The foreign wording in the mark translates into English as GRAND ULTIMATE OR SUPREME ULTIMATE.

Goods and Services (CANCELLED) IC 006. US 002 012 013 014 023 025 050. G & S: METAL ROBE HOOKS, BASKETS OF COMMON METALS FOR BATHROOMS; METAL CABINET HARDWARE, NAMELY PULLS, KNOBS AND HANDLES; METAL DOOR HARDWARE, NAMELY KNOBS, PULLS, HANDLES, HANDLESETS, ESCUTCHEONS, STRIKE PLATES, HINGES, LOCKSETS AND DEAD BOLTS. FIRST USE: 20040401. FIRST USE IN COMMERCE: 20040401

(CANCELLED) IC 011. US 013 021 023 031 034. G & S: PLUMBING FIXTURES, NAMELY, FAUCETS, SINK SPRAYERS, SHOWER SPRAYERS, SHOWER HEADS, HAND-HELD SHOWERS, FLUSH LEVERS; PLUMBING FITTINGS, NAMELY, SHOWER CONTROL VALVES, TUB CONTROL VALVES; ELECTRIC LIGHTING FIXTURES. FIRST USE: 20040401. FIRST USE IN COMMERCE: 20040401

(CANCELLED) IC 021. US 002 013 023 029 030 033 040 050. G & S: BATH ACCESSORIES, NAMELY, TOWEL BARS, TOWEL HOLDERS, TOWEL RACKS, TOWEL RINGS, SOAP DISHES, SOAP BRACKETS, SOAP BOXES, SOAP HOLDERS, SOAP DISPENSERS, CUP HOLDERS, TOILET PAPER HOLDERS, SHOWER CADDIES. FIRST USE: 20040401. FIRST USE IN COMMERCE: 20040401

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