

ESTTA Tracking number: **ESTTA720734**

Filing date: **01/15/2016**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Obo Italian East Sac, LLC		
Entity	limited liability company	Citizenship	California
Address	2225 Hurley Way, Suite 101 Sacramento, CA 95825 UNITED STATES		

Attorney information	Christopher Passarelli; Corinna Charlton Dickenson Peatman & Fogarty 1455 First St., Ste. 301 Napa, CA 94559 UNITED STATES tmdept@dpf-law.com Phone:7072527122		
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Registration Subject to Cancellation

Registration No	4047485	Registration date	11/01/2011
International Registration No.	NONE	International Registration Date	NONE
Registrant	SO GOOD 22 rue Saint Antoine FRANCE		

Goods/Services Subject to Cancellation

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Beers; mineral and sparkling waters; fruit drinks and fruit juices; syrups and other preparations for making beverages, namely, alcoholic beverages, fruit beverages; lemonades; fruit nectars; soda water; non-alcoholic aperitifs; sweet ciders; raw non-alcoholic ciders
Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Alcoholic beverages except beers; raw hard ciders; digesters; wine; spirits; alcohol essences and extracts

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition_for_Cancellation-OBO.pdf(455123 bytes)
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Certificate of Service

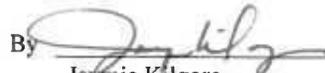
The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	01/15/2016

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://estta.uspto.gov>>.

Dated: 1/15/16

By 
Jaymie Kilgore

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

Obo Italian East Sac, LLC,
Petitioner,
vs.
So Good, SARL,
Registrant.

CANCELLATION NO.

PETITION FOR CANCELLATION

TO THE COMMISSIONER OF TRADEMARKS:

OBO ITALIAN EAST SAC, LLC (hereinafter "Petitioner"), a California limited liability company whose address is 2225 Hurley Way, Suite 101 Sacramento, CA 95825 believes it is and will continue to be damaged by the registration of the mark OBO, subject of U.S. Trademark Registration No. 4,047,485 in International Classes 32 for: "Beers; mineral and sparkling waters; fruit drinks and fruit juices; syrups and other preparations for making beverages, namely, alcoholic beverages, fruit beverages; lemonades; fruit nectars; soda water; non-alcoholic aperitifs; sweet ciders; raw non-alcoholic ciders," and International Class 33 for: "Alcoholic beverages except beers; raw hard ciders; digesters; wine; spirits; alcohol essences and extracts" on the Principal Register ("Registration"), as shown in the above-referenced registration of OBO by SO GOOD, Société à Responsabilité Limitée FRANCE ("Registrant") and hereby petitions to cancel the registration.

1 The grounds for cancellation are as follows:

2 1. Petitioner intends to engage in the provision of restaurant services under the
3 proposed mark OBO', subject of U.S. Trademark Application Serial No. 86/579,086.

4 2. Petitioner has invested a great deal of time and money in developing and
5 promoting Petitioner's business and the professional quality of its goods and services, and
6 continues to spend substantial amounts of time and money in the development and promotion of
7 the same.

8 3. On March 27, 2015, Petitioner filed an intent-to-use trademark application on the
9 Principal Register for the mark OBO' in Class 43 for restaurant services. This application was
10 assigned Serial No. 86/579,086. As discussed below, Petitioner's application was refused by the
11 U.S. Patent and Trademark Office ("USPTO") on the basis of a likelihood of confusion between
12 Petitioner's mark and Registration No. 4,047,485.

13 4. On March 5, 2010, Registrant, a French private limited liability company, filed
14 Application Serial No. 79/081,474 for the mark OBO for "Beers; mineral and sparkling waters;
15 fruit drinks and fruit juices; syrups and other preparations for making beverages, namely,
16 alcoholic beverages, fruit beverages; lemonades; fruit nectars; soda water; non-alcoholic aperitifs;
17 sweet ciders; raw non-alcoholic ciders," in International Class 32 and for: "Alcoholic beverages
18 except beers; raw hard ciders; digesters; wine; spirits; alcohol essences and extracts" in
19 International Class 33. This application matured into Registration No. 4,047,485, issued under
20 Section 66(a) of the United States Trademark Act on November 1, 2011 ("Registered Mark") and
21 is the subject of this Petition.

22 5. On information and belief, Registrant is a French private limited liability company
23 with a principal place of business at 22 rue Saint Antoine, F-16000 Angouleme, France.

24 6. On July 21, 2015, the USPTO issued an Office Action refusing to register
25 Petitioner's OBO' application on the ground that the mark is confusingly similar to Registrant's
26 Registered Mark.

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1 7. On information and belief, Registrant has either never used the Registered Mark in
2 commerce, or completely ceased using the Registered Mark, in connection with the goods
3 identified in the Registration, for a period of at least three consecutive years.

4 8. Petitioner has been damaged and will continue to be damaged if the Registered
5 Mark is permitted to remain on the Principal Register because the Registered Mark stands as a bar
6 to Petitioner’s ability to federally register and protect its OBO’ mark for the services identified in
7 paragraph 3 above.

8 9. Upon information and belief, Registrant does not sell its claimed goods under the
9 Registered Mark in the U.S.

10 10. On further information and belief, Registrant has not registered the name OBO
11 with the TTB as required by law. If the Registrant was legally selling its claimed goods, which
12 include alcoholic beverages, one would expect to find the name OBO on the TTB’s COLA
13 listings. Its absence from the TTB register is further evidence of lack of bona fide intent to use the
14 mark in U.S. commerce, non-use and abandonment.

15 11. Upon information and belief, Registrant has either never actively used the
16 Registered Mark, or has permanently ceased all use of the Registered Mark in connection with
17 “Beers; mineral and sparkling waters; fruit drinks and fruit juices; syrups and other preparations
18 for making beverages, namely, alcoholic beverages, fruit beverages; lemonades; fruit nectars;
19 soda water; non-alcoholic aperitifs; sweet ciders; raw non-alcoholic ciders,” in International Class
20 32 and for: “Alcoholic beverages except beers; raw hard ciders; digesters; wine; spirits; alcohol
21 essences and extracts” in International Class 33 with no intention to resume use of the Registered
22 Mark.

23 12. Upon information and belief, by reason of the facts set forth above, Registrant has
24 failed to use the Registered Mark for at least three consecutive years, and therefore Registrant has
25 abandoned the Registered Mark within the meaning of 15 U.S.C. §§ 1064(3) and 1127.

26 13. Upon information and belief, Registrant at all times lacked and currently lacks a
27 bona fide intent to use the Registered Mark in commerce lawfully regulated by U.S. Congress.
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14. By virtue of the foregoing, if the Registered Mark is permitted to remain on the Principal Register with all of the rights and privileges conferred on it by the USPTO, Petitioner will be damaged, including its inability to secure registration for its OBO' mark, and Registrant will enjoy unlawful gain and advantage to which it is not entitled under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*

15. Petitioner is damaged and will continue to be damaged because the continued existence of such improper Registration stands as a bar to Petitioner's ability to federally register and protect its OBO' mark, and casts a cloud upon Petitioner's title and right to enjoy the free and exclusive use thereof in connection with the sale and provision of its services.

WHEREFORE, Petitioner respectfully requests that this Petition be granted and that Registration No. 4,047,485 be canceled pursuant to 15 U.S.C. § 1064.

Respectfully submitted,

Dated: January 15, 2016

DICKENSON, PEATMAN & FOGARTY

By /Christopher Passarelli/
Christopher J. Passarelli
Corinna Charlton

1455 First Street, Ste. 301
Napa, California 94559
Telephone: 707-252-7122
Facsimile: 707-255-6876

Attorneys for Petitioner,
Obo Italian East Sac, LLC

PROOF OF SERVICE

I declare that I am over the age of 18 years, employed in the County of Napa, and not a party to the within action; my business address is 1455 First Street, Ste. 301, Napa, CA 94559.

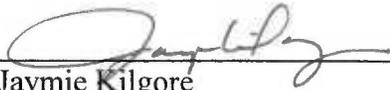
On January 15, 2016, I served the attached **PETITION FOR CANCELLATION** on the person(s) listed below:

Andrew J. Patch
Young & Thompson
209 Madison Street, Suite 500
Alexandria, VA 22314

by enclosing a true copy in a sealed envelope addressed as shown above and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed January 15, 2016, at Napa, California.



Jaymie Kilgore
Legal Secretary

DICKENSON PEATMAN & FOGARTY