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Filing date: **01/25/2016**

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	Boston Juicery, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	2 Oliver Street, Suite 300 Boston, MA 02110 UNITED STATES		

Attorney information	Aaron Y. Silverstein Saunders & Silverstein LLP 14 Cedar Street, Suite 224 Amesbury, MA 01913-1831 UNITED STATES trademarks@massiplaw.com, asilverstein@massiplaw.com Phone:+1.978.463.9100		
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Registration Subject to Cancellation

Registration No	4726293	Registration date	04/28/2015
Registrant	SQUEEZE JUICE WORKS, LLC 675 30th Avenue North, Suite 101 St. Petersburg, FL 33704 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2013/04/19 First Use In Commerce: 2013/04/19 All goods and services in the class are cancelled, namely: Nut-based milk for use as a substitute
Class 032. First Use: 2013/04/19 First Use In Commerce: 2013/04/19 All goods and services in the class are cancelled, namely: Fruit juices; Herbal juices; Vegetable juices
Class 035. First Use: 2013/04/19 First Use In Commerce: 2013/04/19 All goods and services in the class are cancelled, namely: Retail store services featuring nut-based milk, fruit juices, herbal juices, vegetable juices accessible in person, online and by telephone, facsimile and mailorder

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	SQUEEZE JUICE BAR
Goods/Services	Fruit juices; Vegetable juices; Smoothies; Juice bar services; Smoothie bar services; Cafe services

Attachments	20160125 squeeze pfc final.pdf(2344738 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	/silverstein/
Name	Aaron Y. Silverstein
Date	01/25/2016

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

BOSTON JUICERY, LLC

Petitioner,

v.

SQUEEZE JUICE WORKS, LLC,

Registrant.

Cancellation No.

Registration No. 4,726,293

Mark: SQUEEZE JUICE WORKS

PETITION FOR CANCELLATION

Boston Juicery, LLC (“Petitioner” or “Boston Juicery”) believes that it is, and will continue to be, damaged by U.S. Registration No. 4,726,293 for the mark SQUEEZE JUICE WORKS for “Nut-based milk for use as a substitute” in International Class 29; “Fruit juices; Herbal juices; Vegetable juices” in International Class 32; and “Retail store services featuring nut-based milk, fruit juices, herbal juices, vegetable juices accessible in person, online and by telephone, facsimile and mail order” in International Class 35, and hereby petitions for cancellation of the same. As grounds for its cancellation, Boston Juicery alleges the following, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

The Parties

1. Petitioner Boston Juicery, LLC is a Delaware limited liability company with a principal place of business at 2 Oliver Street, Suite 300, Boston, Massachusetts.
2. Registrant Squeeze Juice Works, LLC is a Florida limited liability company with a principal place of business at 675 30th Avenue North, Suite 101, St. Petersburg, Florida.

3. Since at least as early as March 2012, Boston Juicery, or its predecessor in interest, has rendered juice bar, smoothie bar, and cafe services in the United States under the mark SQUEEZE JUICE BAR.

4. Since at least as early as March 2012, Boston Juicery, or its predecessor in interest, has sold juice and smoothies bearing the SQUEEZE JUICE BAR mark in the United States.

5. Through extensive advertising, promotion, and use of its SQUEEZE JUICE BAR mark, Boston Juicery has built a strong reputation for high quality goods and services offered thereunder.

6. Boston Juicery's SQUEEZE JUICE BAR mark has, before Registrant's claimed date of first use and Registrant's filing date, come to be distinctive and to uniquely identify Boston Juicery and its goods and services.

7. On February 28, 2014, Registrant filed a trademark application for the mark SQUEEZE JUICE WORKS identifying "Nut-based milk for use as a substitute" in International Class 29; "Fruit juices; Herbal juices; Vegetable juices" in International Class 32; and "Retail store services featuring nut-based milk, fruit juices, herbal juices, vegetable juices accessible in person, online and by telephone, facsimile and mail order" in International Class 35.

8. Registrant based its application on Section 1(a) of the Lanham Act, claiming a first use and first use in commerce date of April 19, 2013, for all goods and services. The application was assigned Serial No. 86/207,153.

9. On April 28, 2015, Ser. No. 86/207,153 matured to registration under U.S. Registration No. 4,726,293.

10. In a letter from Registrant's counsel to Petitioner dated August 10, 2015 ("Registrant's Letter"), Registrant stated, "[A]ny use of the terms 'Squeeze' or 'Squeeze Juice Bar' by Boston Juicery beyond the counties of Suffolk County, Norfolk County, and Middlesex County, will be objectionable to our client and will be addressed as infringement of our client's rights in its Federally Registered Trademark." A true and correct copy of Registrant's Letter is attached as Exhibit A.

11. Registrant acknowledges Petitioner's priority in Registrant's Letter. Registrant's Letter stated, "Our client recognizes that Boston Juicery was in operation prior to the filing of the Federal Trademark Application that matured into the Federal Registration for the SQUEEZE JUICE WORKS® [sic]."

Count One
Likelihood of Confusion, 15. U.S.C. § 1052(d)

12. Boston Juicery repeats and realleges each and every allegation set forth in Paragraphs 1 through 11.

13. Boston Juicery has used and established strong common law rights in its SQUEEZE JUICE BAR mark before Registrant's April 19, 2013, claimed date of first use and before its February 28, 2014, filing date.

14. Registrant's SQUEEZE JUICE WORKS mark is similar in appearance, sound, and connotation to Boston Juicery's SQUEEZE JUICE BAR mark.

15. The goods and services set forth in U.S. Registration No. 4,726,293 are identical, overlapping, or related to the goods and services with which Boston Juicery uses its SQUEEZE JUICE BAR mark.

16. Therefore, Registrant's SQUEEZE JUICE WORKS mark is likely, when applied to the goods and services identified in U.S. Registration No. 4,726,293, to cause

confusion, to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

Boston Juicery believes that it is, and will continue to be, damaged by the registration of the SQUEEZE JUICE WORKS mark and respectfully requests that this Petition for Cancellation be sustained and that U.S. Registration No. 4,726,293 be cancelled.

Respectfully submitted,

BOSTON JUICERY, LLC

By its attorneys,

/s/Aaron Y. Silverstein

Aaron Y. Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913-1831
+1.978.463.9130
asilverstein@massiplaw.com

Dated: January 25, 2016

ATTORNEYS FOR PETITIONER
BOSTON JUICERY, LLC

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2016, a true and complete copy of the foregoing Petition for Cancellation, along with all exhibits thereto, has been served on Registrant, and Registrant's counsel, via first class mail, postage pre-paid to:

Squeeze Juice Works, LLC
675 30th Avenue North, Suite 101
St. Petersburg, Florida 33704

and

Brittany J. Maxey
Maxey Law Offices, PLLC
100 2nd Avenue South, Suite 401
St. Petersburg, Florida 33701-4360

/s/Aaron Y. Silverstein
Aaron Y. Silverstein

EXHIBIT A

City Center
100 Second Avenue South
Suite 401 North
St. Petersburg, Florida 33701



Telephone: 1-727-230-4949
Facsimile: 1-727-230-4827
www.maxeyiplaw.com

Protect All That Is Yours®

August 10, 2015

Via Federal Express

Boston Juicery, LLC, dba Squeeze Boston and dba Squeeze Juice Bar and Cafe
Attention: Sasha Nisenbaum
2 Oliver Street, 3rd Floor
Boston, MA 02110

RE: SQUEEZE JUICE WORKS® Trademark and Squeeze Juice Bar & Cafe

Dear Ms. Nisenbaum:

Please be advised this firm represents Squeeze Juice Works, LLC (hereinafter "SJW"), owner of all U.S. rights in the Federal Trademark Registration SQUEEZE JUICE WORKS®. A copy of SJW's Federal Trademark Registration for the SQUEEZE JUICE WORKS® Trademark is enclosed herewith as Exhibit A. As you can see, our client's mark has been registered for "Nut-based milk for use as a substitute," "Fruit juices; Herbal juices; Vegetable juices," and "Retail store services featuring nut-based milk, fruit juices, herbal juices, vegetable juices accessible in person, online and by telephone, facsimile and mail order."

It has recently come to our client's attention that your company, Boston Juicery, LLC, dba Squeeze Boston and dba Squeeze Juice Bar and Cafe (hereinafter "Boston Juicery"), is advertising, marketing and operating using terms that are confusingly similar to SJW's Registered Trademark. Specifically, Boston Juicery is advertising, marketing, and selling Goods and Services in connection with the terms "SQUEEZE" and "SQUEEZE JUICE BAR" at its three retail locations, on its website located at the URL <http://squeezeboston.com>, and on its social media sites available at <https://instagram.com/squeezeboston>, <https://www.facebook.com/squeezeboston>, and <https://twitter.com/squeezeboston>.

The homepage of your website, available at <http://squeezeboston.com> displays the following advertisement for "Squeeze Juice Bar":

SQUEEZE



Order Online

SQUEEZE JUICES SMOOTHIES AGAI BOWLS SHOTS & COFFEES ENHANCERS LOCATIONS

225 Franklin St., Boston (617) 357.7444 | 131 Dartmouth St., Boston (557) 277.1266 | 260 Baylston St., Chestnut Hill (617) 244.3042



welcome Squeeze Juice Bar

We make it a point to ensure our products not only taste great but make you feel great, working hand in hand with nutritionists, trainers, mixologists and you, our customers.

feel great!

the best for your health

The subpage of your website under the link "About Us" and available at <http://squeezeboston.com/about.html> includes the following advertisement:

SQUEEZE



Order Online

SQUEEZE JUICES SMOOTHIES AGAI BOWLS SHOTS & COFFEES ENHANCERS LOCATIONS

about squeeze



OUR MISSION

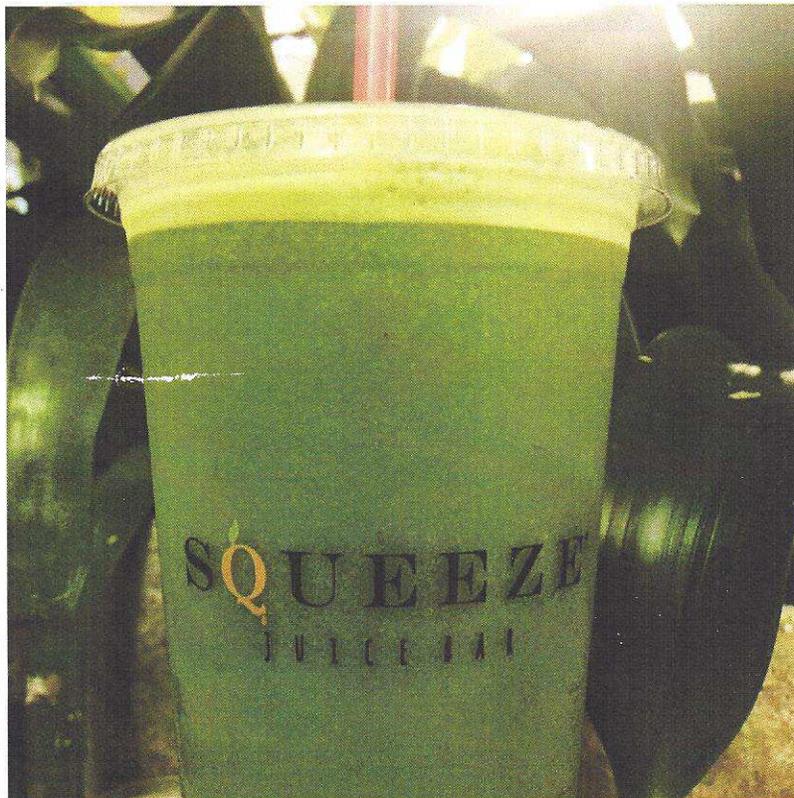
Squeeze Juice Bar & Cafe strives to use the finest quality ingredients in everything we make. We make it a point to ensure our products not only taste great but make you feel great, working hand in hand with nutritionists, trainers, mixologists and you, our customers.

OUR LOCATIONS

225 Franklin Street,
Boston, MA 02116
Phone: 617.357.7444
Hours: mon. - thur. 6am - 9:30pm
fri. 6am - 8pm & sat. - sun. 8:30am - 4pm
E-mail: info@squeezeboston.com
Directions: [Click Here](#)

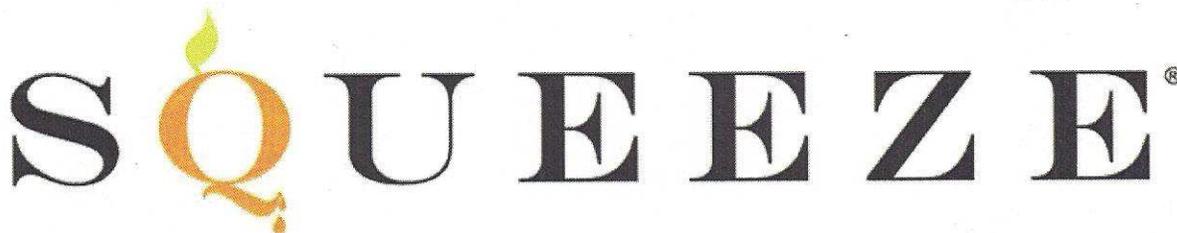
131 Dartmouth Street,
Boston, MA 02116
Phone: 857.277.1266
Hours: mon. - thur. 6am - 10:30pm
fri. 6am - 10pm & sat. - sun. 7am - 8pm
E-mail: info@squeezeboston.com

Boston Juicery also sells Goods similar to those of SJW in packaging including the terms “Squeeze Juice Bar.” Two examples of Boston Juicery’s packaging are shown below:



This letter is intended to place you on notice that our client owns ALL U.S. rights to the Federally Registered SQUEEZE JUICE WORKS® Trademark, and our client is the ONLY entity authorized to use that Trademark in the United States and its territories. Our client recognizes that Boston Juicery was in operation prior to the filing of the Federal Trademark Application that matured into the Federal Registration for the SQUEEZE JUICE WORKS®. Accordingly, our client does not object to the continued operation of Boston Juicery within Boston and the surrounding counties. However, any use of the terms “Squeeze” or “Squeeze Juice Bar” by Boston Juicery beyond the counties of Suffolk County, Norfolk County, and Middlesex County, will be objectionable to our client and will be addressed as infringement of our client’s rights in its Federally Registered Trademark.

Furthermore, Boston Juicery has been falsely marking the term “SQUEEZE” as a Federally Registered Trademark by including the ® symbol with the term on its website, social media accounts, and on packaging. The use can be seen in the examples included above, and is shown below from Boston Juicery’s Facebook Cover Photo:



The ® symbol may only be used by a “registrant of a mark registered in the Patent and Trademark Office.” *15 U.S.C. § 1111*. Federal Courts have held that the deliberate use of the ® symbol with the intent to deceive the public is fraud. *See Copelands’ Enterprises Inc. v. CNV Inc.*, 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991).

Therefore, consider this letter our formal demand for you and your company, Boston Juicery, to cease any and all use of the Federal Trademark Registration symbol, ®, with any term not Registered with the United States Patent and Trademark Office.

In order to comply with our demand, you and your company must **immediately**:

- Cease all advertising, promotion, sale, distribution, offering for sale and information for any products or services bearing the term SQUEEZE in conjunction with the ® symbol.

August 10, 2015

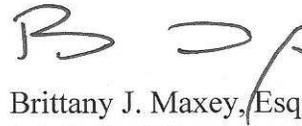
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- Delete all uses of the term SQUEEZE and all variations thereof in conjunction with the ® symbol, from any locations on the World Wide Web maintained, controlled, or in any way affiliated with you; and
- Sign the enclosed Certification of Compliance and return it to our offices by August 24, 2015.

Please have an authorized company representative review, sign, and date the Certificate of Compliance included herewith and return a copy of the entire signed and dated Certificate of Compliance to our offices by August 24, 2015. In an effort to resolve this matter without the necessity of litigation, your compliance with the aforementioned terms will not be deemed to be an admission of liability by your company.

Thank you for your attention to this serious legal matter and we look forward to your immediate response. If you would like to discuss this matter further, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read 'B J Maxey', with a large, sweeping flourish extending to the right.

Brittany J. Maxey, Esquire
Intellectual Property Attorney

Enclosures.

cc: Squeeze Juice Works, LLC

**CERTIFICATION OF COMPLIANCE
(MUST BE RETURNED BY AUGUST 24, 2015)**

I, _____ [Name of Authorized Company Representative],
_____ [State job title in name of company], being duly sworn,
hereby attest, individually and on behalf of Boston Juicery, LLC, dba Squeeze
Boston and dba Squeeze Juice Bar and Cafe ("Boston Juicery"), that:

A. As of _____ [Date], Boston Juicery, and all parties acting
in concert with the company:

1. have permanently ceased, both directly and indirectly, all advertising,
promotion, sale, distribution, and offering for sale for products or services
bearing the term SQUEEZE in conjunction with the ® symbol to parties
located in the United States and/or parties who are reasonably likely to
import the Merchandise into the United States;

2. have permanently removed all uses of the term SQUEEZE and all
variations thereof in conjunction with the ® symbol from any locations on
the World Wide Web maintained, controlled, or in any way affiliated
Boston Juicery;

Date: _____

[Name of person]

STATE OF _____
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared
_____, who is personally known to me, or who produced
the following identification: Driver's License # _____
and known by me to be the person who executed the foregoing document, who,
being first duly sworn and cautioned, took an oath that the statements and things
contained therein are true and correct.

NOTARY PUBLIC, STATE OF _____

EXHIBIT A

United States of America
United States Patent and Trademark Office

SQUEEZE JUICE WORKS

Reg. No. 4,726,293

Registered Apr. 28, 2015

Int. Cls.: 29, 32 and 35

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

SQUEEZE JUICE WORKS, LLC (FLORIDA LIMITED LIABILITY COMPANY)
675 30TH AVENUE NORTH, SUITE 101
ST. PETERSBURG, FL 33704

FOR: NUT-BASED MILK FOR USE AS A SUBSTITUTE, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-19-2013; IN COMMERCE 4-19-2013.

FOR: FRUIT JUICES; HERBAL JUICES; VEGETABLE JUICES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 4-19-2013; IN COMMERCE 4-19-2013.

FOR: RETAIL STORE SERVICES FEATURING NUT-BASED MILK, FRUIT JUICES, HERBAL JUICES, VEGETABLE JUICES ACCESSIBLE IN PERSON, ONLINE AND BY TELEPHONE, FACSIMILE AND MAIL ORDER, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-19-2013; IN COMMERCE 4-19-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "JUICE", APART FROM THE MARK AS SHOWN.

SER. NO. 86-207,153, FILED 2-28-2014.

WENDY GOODMAN, EXAMINING ATTORNEY



Nichelle K. Lee
Director of the United States
Patent and Trademark Office