

ESTTA Tracking number: **ESTTA737243**

Filing date: **04/01/2016**

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

Proceeding	92063255
Party	Defendant Sigma Impex Inc.
Correspondence Address	SIGMA IMPEX INC 140 ETHEL ROAD WEST, SUITE-S PISCATAWAY, NJ 08854 UNITED STATES dass@sigmaimpex.com
Submission	Answer
Filer's Name	CHARU NARANG
Filer's e-mail	CHARUNARANG@AOL.COM
Signature	/CHARU NARANG/
Date	04/01/2016
Attachments	SIGMAIMPEXANSWERTOFLEXSTEELPETITION.pdf(49465 bytes) scan0039-2.pdf(894449 bytes) scan0024-2.pdf(2208323 bytes)

MARK: SPLENDID COMFORT
REGISTRATION NO.: 4266427
SERIAL NO.: 85/179,951
INT'L CL: 24
FILED: NOV. 18, 2010
REGISTRATION DATE: JAN. 1, 2013

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

FLEX STEEL INDUSTRIES, INC.,)
Petitioner,)
) Cancellation No.: 92063255
)
vs.)
)
)
SIGMA IMPEX, INC.,)
Respondent.)

RESPONDENT'S ANSWER TO PETITIONER'S PETITION TO CANCEL

Respondent, SIGMA IMPEX, Inc. ("SIGMA IMPEX"), a Company organised and existing under the laws of the State of New Jersey, Answers Petitioner's Petition to Cancel as follows:

1. Respondent has no personal knowledge of the allegations of paragraph 1. However, Respondent has reviewed Petitioner's application as provided by the USPTO database and it is for the mark and goods stated in the Petition.
2. Respondent's current business address is 140 Ethel Road West, Suite # A, Piscataway, NJ 08854.
3. Respondent has no personal knowledge of the allegations of paragraph 3. However, Respondent has reviewed Petitioner's application as provided by the USPTO database and the refusal of Petitioner's mark is for the reasons stated.
4. Respondent denies the allegations of paragraph 4 of the Petition. Attache hereto is an Affidavit from the President of SIGMA IMPEX, Vishvambhar Dass, along with an invoice from June 2013 indicating that the mark SPLENDID COMFORT has been used on blankets, the goods as listed on the Registration, within the last 3 years.

5. Respondent denies the allegations of paragraph 5 of the Petition. Respondent has no intention of abandoning use of the mark SPLENDID COMFORT. As explained in the attached Affidavit, Respondent's business is seasonal, and as such, Respondent utilizes the mark during the year, as necessary.

6. Respondent reiterates paragraph 2 above in response to the allegations of paragraph 6 of the Petition.

7. Respondent denies the allegations of paragraph 7 of the Petition for the reasons stated above and explained in the Affidavit attached hereto.

8. Thus, Respondent states that the mark at issue, SPLENDID COMFORT, is not now or has ever been abandoned by the Respondent.

9. That Respondent has used the mark within the past 3 years for the goods and services for which it was procured.

10. That Petitioner is not and will not be damaged by Respondent's mark.

WHEREFORE, Respondent requests that the Board dismiss Petitioner's Petition to Cancel on the grounds that the mark SPLENDID COMFORT has not been abandoned by the Respondent, and for any such other relief the Board deems proper and appropriate.

Dated: April 1, 2016

/Charu Narang/

Charu Narang, Esq.
Attorney for Respondent
SIGMA IMPEX, INC
189 Chelmsford Rd.
Rochester, NY 14618
Phone: 646.234.9500

AFFIDAVIT

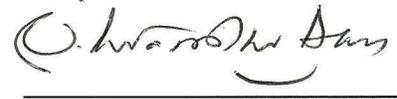
I, VISHVAMBHAR DASS, do hereby make the following statement under penalty of perjury:

1. I am the President/CEO of SIGMA IMPEX, INC. (SIGMA IMPEX) the Respondent in Cancellation No.: 92063255, Flexsteel Industries, Inc. v. Sigma Impex, Inc.
2. I received a copy of Petitioner's Petition to Cancel on or about 03/10/2016 (10th March '16)
3. On November 18, 2010, I filed a trademark Application for the mark SPLENDID COMFORT with the United States Patent and Trademark Office.
4. My company had been using the mark since October 25, 2010 on blankets and bedsheets, as listed in the Registration certificate and all of the application materials filed in conjunction with the application for the mark.
5. My company has no intention of abandoning the mark SPLENDID COMFORT for bedsheets and blankets.
6. In addition, we have used the mark on either blankets or bedsheets within the past 3 years.
7. Our products, the goods associated with the mark, are seasonal in nature.
8. Specifically, we place orders for the products in August of the year, for sale in the fall and winter season.
9. The products are manufactured overseas and shipped to us with the logo on them.
10. Upon receipt of the blankets and bedsheets we sell them to our distributors.
11. Upon receipt of the current Petition to Cancel, which alleges that we have not used the mark for at least 3 years and that we have no intention of using the mark moving forward, I reviewed our invoices in order to determine last use of the mark.
12. Attached hereto is Invoice No.72332 dated 6/17/2013 indicating that 80 blankets were shipped to Signature Healthcare of Montclair.
13. Attached also is a picture of the blankets shipped.
14. As can be seen, the blankets bear the SPLENDID COMFORT mark.

15. It is our intention to order blankets and bedsheets again this year for sale in the fall and winter season.

16. As stated previously, we never intended to abandon the mark SPLENDID COMFORT in the past, nor do we intend to abandon it in the future.

Dated: 03/29/2016



VISHVAMBHAR DASS

Sworn to before me this 29th day of March, 2016

/Charu Narang/
Notary Public

Reg. No.: 02NA6327776
EXP.: 7/13/2019
MONROE COUNTY, NY

INVOICE

INVOICE NO.: 72332

CUSTOMER NO.: 4353

SIGMA IMPEX INC
 140 ETHEL ROAD WEST SUITE S
 PISCATAWAY, NJ 08854
 732-248-9696

SOLD TO:

SHIP TO:

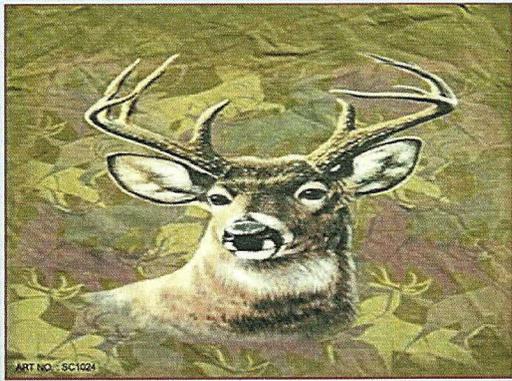
SIGNATURE HEALTHCARE OF
 MONTCLAIR
 110 GREENWOOD AVENUE
 MONTCLAIR, NJ 07042-

SIGNATURE HEALTHCARE OF
 MONTCLAIR
 110 GREENWOOD AVENUE
 MONTCLAIR NJ 07042-
 973-783-5589

THANK YOU FOR YOUR ORDER.

DATE		SHIP VIA		F.O.B.		TERMS	
06/17/13		PICK UP		PISCATAWAY		PRE-PAID-CK #001196	
PURCHASE ORDER NUMBER			ORDER DATE	SALES PERSON			OUR ORDER NUMBER
06-17-13			06/17/13	HOUSE ACCOUNT			
QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	EXTENDED PRICE	
ORDERED	SHIPPED	B.O.					
80	80	0	ZP 1	ASSORTED BLANKETS	12.00	960.00	
SUBTOTAL						960.00	
FREIGHT						0.00	

PLEASE REMIT THIS AMOUNT: \$ 960.00



ART NO. : SC1021

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches

MADE IN CHINA



ART NO. : SC1012

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches

MADE IN CHINA

Splendid Comfort



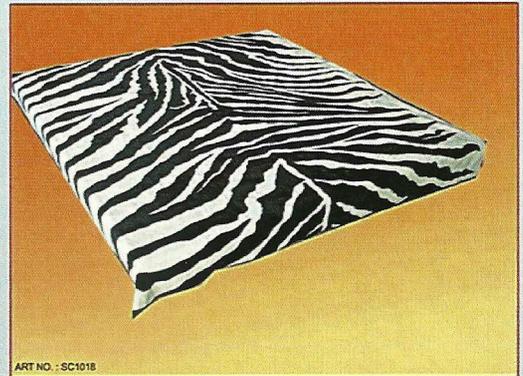
ART NO. : SC1017

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches

MADE IN CHINA

Splendid Comfort



ART NO. : SC1018

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches

MADE IN CHINA

Splendid Comfort



ART NO. : SC1022

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches

Splendid Comfort



ART NO. : SC1023

Plush Blanket

100% Polyester Blanket
Size: 79 x 94 Inches