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Filing date: **07/04/2016**

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

Proceeding	92063790
Party	Defendant IDT Consulting And Services Inc.
Correspondence Address	IDT CONSULTING AND SERVICES INC 3613 WHITWORTH DRIVE DUBLIN, CA 94568 UNITED STATES AVIJAY6@GMAIL.COM
Submission	Answer
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Date	07/04/2016
Attachments	response_IDT_petition_to_cancel-2.pdf(2366449 bytes)

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7 Attorneys for IDT Consulting and Services, Inc.

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

10 Home Tech Innovation, Inc.,
11 Petitioner,
12 v.
13 IDT Consulting and Services, Inc.,
14 Respondent.

CANCELLATION #: 92063790

**RESPONDENT'S ANSWER TO
PETITION TO CANCEL**

Date: 7.3.16

Judge:

Hearing Date : N/A

Date Action Filed: 5.26.16

18 **RESPONDENT'S RESPONSE TO PETITION TO CANCEL**

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21 On or about May 26, 2016, Home Tech Innovation, Inc. (hereafter
22 Petitioner) filed a petition to cancel the registration of mark SUVI, issued through
23 registration number 4,890,276 (hereafter cited registration) on January 19, 2016 to
24 IDT Consulting Services, Inc. (hereafter Respondent). On June 10, 2016, Petitioner
25 made some clerical corrections and filed a motion to amend. Respondent makes
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1 solar water heaters used for cooking, cleaning, laundry and other inside the home
2 applications. A use of the USPTO provided class identification tool conforms that
3 the proper international class for solar water heaters is class 11. Respondent has a
4 portable product set and the envisaged product is and can be used for in-home
5 applications of cooking and refrigeration. The solar water heater has uses. Inter
6 alia, in providing drinking hot water at home and outside, cleaning clothes,
7 bathing, making tea and cooking food. Respondent has a product set of solar power
8 generator that is capable of being used in commerce for design and development of
9 any home device or appliance that consumes less than 50 W of power. These
10 include but are not limited to televisions, laptops, lights, fans, and plurality of
11 small appliances in and around the home. Respondent therefore, refutes and
12 disputes the claims of Petitioner. Respondent has lawfully beaten Petitioner in race
13 to registration of mark SUVI (as opposed to similar sounding SUVIE). The petition
14 must be denied and no registration issued for SUVIE for its likelihood of confusion
15 with Respondent's mark. Relying on its application and approval with USPTO,
16 Respondent has registered the mark SUVI in China and Europe. See Exhibits.

ANSWER ADDRESSING ALLEGATIONS

1 COUNT 8: Respondent disputes this count as self-contradictory and not in accord
2 with facts. Petitioner admits in COUNT 2 that Respondent filed an intent to use
3 application with the USPTO in connection with among other things, “ Design and
4 development of medical research products, kitchen products, electronic products,
5 solar products, machinery for the agriculture industry and home décor products.”
6
7 Thus, Respondent’s Application was published for opposition in connection with
8 goods in International Class 11.
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12 COUNT 9 and COUNT 10: Respondent states on information and belief that even
13 if true that a computer-generated image was submitted, that it is acceptable
14 specimen under the Trademark law with USPTO.
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18 COUNT 15: Respondent has lawfully obtained registration for mark SUVI in
19 connection with International class 42 and 11. Respondent’s lawful rights cannot
20 be any reason for damages for Petitioner.
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24 COUNT 17: Respondent on information and belief disputes the allegation that
25 Respondent has never used the SUVI mark in connection with goods and services
26 identified in the cited registration.
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2 COUNT 18: Respondent on information and belief disputes the allegation that
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4 Respondent was not using the SUVI mark on or before August 14, 2015 in
5 connection with goods and services identified in the cited registration.
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8 COUNT19: On information and belief, Respondent disputes that it has never used
9 the SUVI mark on the design and development of medical research products.
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12 COUNT 20: On information and belief, Respondent disputes that it has never used
13 the SUVI mark on the design and development of kitchen products.
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16 COUNT 21: On information and belief, Respondent disputes that it has never used
17 the SUVI mark on the design and development of electronic products.
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21 COUNT22: On information and belief, Respondent disputes that it has never used
22 SUVI mark on the design and development for the agricultural industry.
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25 COUNT 23: On information and belief, Respondent disputes that it has never used
26 the SUVI mark on the design and development of home décor products.
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2 COUNT 24: On information and belief, Respondent disputes that it has never used
3 the SUVI mark on an apparatus for lighting, an apparatus for heating, an apparatus
4 for cooking, an apparatus for refrigerating, an apparatus for drying, an apparatus
5 for ventilating, or an apparatus for water supply and sanitary purposes.
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9 COUNT 25: On information and belief, Respondent disputes that the cited
10 registration did not meet the use in commerce requirement as of August 14, 2015
11 and disputes that it does not currently pursuant to 15 U.S.C. 1051. The cited
12 registration is not void by any means presently or at grant of registration.
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16 Respondent requests that the present petition to cancel must be DENIED.
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18 Respondent lawfully and properly beat the Petitioner to registration of mark SUVI.
19 Respondent's has lawful superior rights to Petitioner. Respondent has no intention
20 to restrict its use of the SUVI mark for the benefit of Petitioner. Petitioner can
21 choose a non-confusing mark as appropriate. Petition should be denied as
22 Petitioner admits to Respondent's use of SUVI mark in solar products. Respondent
23 also makes solar water heaters whose proper class through the use of class
24 identification tool provided by USPTO is class 11.
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Respectfully submitted.

/s/ Sanjay Bhardwaj
Sanjay Bhardwaj, Esq.
Attorney for IDT Consulting and Services, Inc.

EXHIBITS



**OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)**

OPERATIONS DEPARTMENT

W304

**Statement of Grant of Protection where no notification of provisional refusal
has been communicated pursuant to Rule 18ter(1) of the Common Regulations
under the Madrid Agreement and Protocol and Rule 116(2) CTMIR**

Alicante, 08/01/2016

International registration number: **1238209**
Date of notification to OHIM: **05-03-2015**
Name of the Holder: **IDT Consulting And Services Inc.**
Trade Mark: **SuVi**

The opposition period has expired without any opposition or observations by third parties being filed and the above-mentioned mark is accepted for protection in the European Community.

The mark has been published pursuant to Article 152(2) CTMR on **08/01/2016**.

Pursuant to Article 151(2) CTMR and Rule 116(1) CTMIR, it shall have the same effect as the registration of a mark as a Community trade mark.

COLLINS,Dafydd

Thomas M. Dunlap
DunlapWeaver PLLC
211 Church St SE
Leesburg VA 20175
United States of America

Our reference: 981/944094201

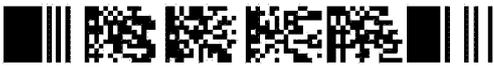
Geneva, 23/12/2015

Re: Statement of Grant of Protection (Rule 18ter(1))
International registration No. 1238209 (SUVI)

Madam,
Sir,

Please find enclosed a statement of grant of protection for the above-mentioned international registration, issued by the Office of China , in accordance with Rule 18ter(1) of the Common Regulations under the Madrid Agreement and Protocol.

International Bureau of the World Intellectual
Property Organization (WIPO)



STATEMENT OF GRANT OF PROTECTION

Notified to the International Bureau of
the World Intellectual Property Organization (WIPO)
under with Rule 18ter (1) of the Common Regulations

I. Office which pronounces the Statement:

Trademark Office
State Administration for Industry and Commerce
1, Chama Nanjie, Xichengqu,
Beijing, 100055
People's Republic of China

Tel: 8610-63219000

Fax: 8610-68050285

II. Date of the statement pronounced: 2015/12/10

III. Our reference number:

IV. International registration number: 1238209

V. Date of notification to China: 2015/03/05

VI. Basic national registration number:

Basic national application number: 86408559

VII. Protection is granted to the mark that is the subject of this international registration for all the goods/services requested.



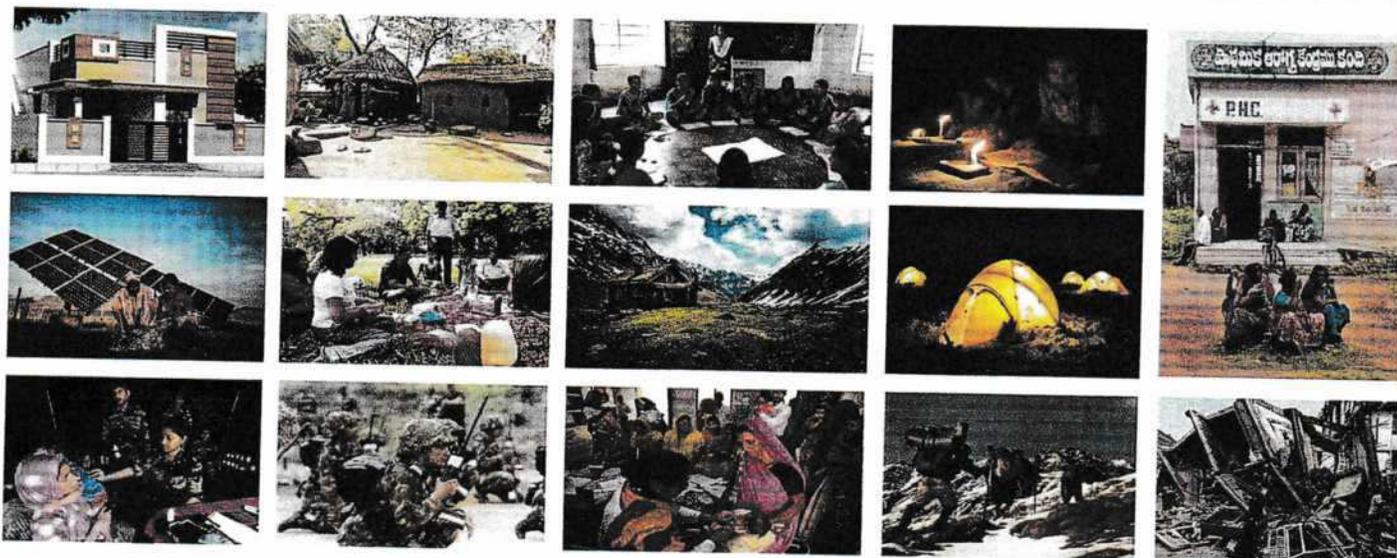
DEVICES/APPLIANCES DESIGNED WITH SOLAR GENERATOR

any device that consumes 50W or lesser could be an ideal load...



and many more ...

PLACE OF USE



and many more ...

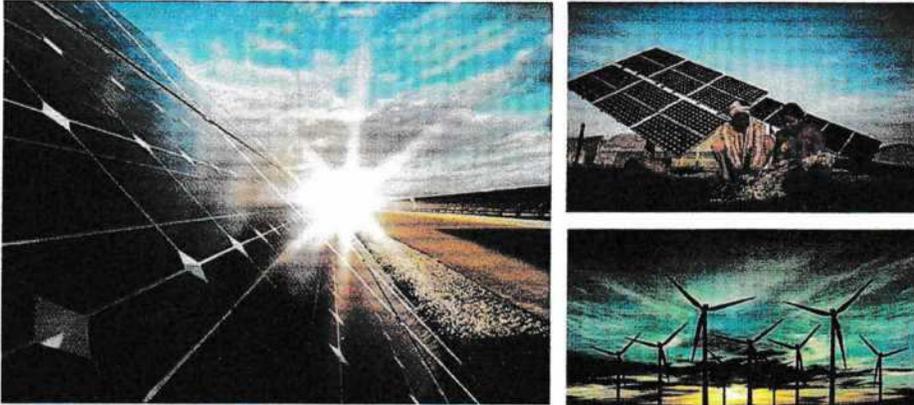


IDT Consulting & Services, Inc.
3613 Whitworth Drive, Dublin, California 94568-1379, USA

For any suggestion, please write to us
Web: www.idtcs.com
Email: inquiry@idtcs.com

FREENERGY

SMART POWER GENERATOR



KEY FEATURES

STURDY DESIGN
PRODUCT CONSTRUCTION



SOLAR PHOTO VOLTAIC
CERTIFIED SOLAR PANEL



INVERTER 300W
PURE SINE WAVE 220 V AC



CHARGE CONTROLLER
FOR LEAD ACID



LEAD ACID BATTERY
12V DC, 20-35.0 AH



WEIGHT < 30KGs
LIGHT IN WEIGHT



SIZE ADAPTIBILITY
ADJUSTABLE HANDLE



HARDWARE
ADVANCE CIRCUIT PROTECTION



COMPACT DESIGN
SMALLEST PRODUCT FOR POWER



MULTI-USE
USE BY ANYONE, ANYWHERE



PORTABLE
SINGLE PERSON PORTABILITY



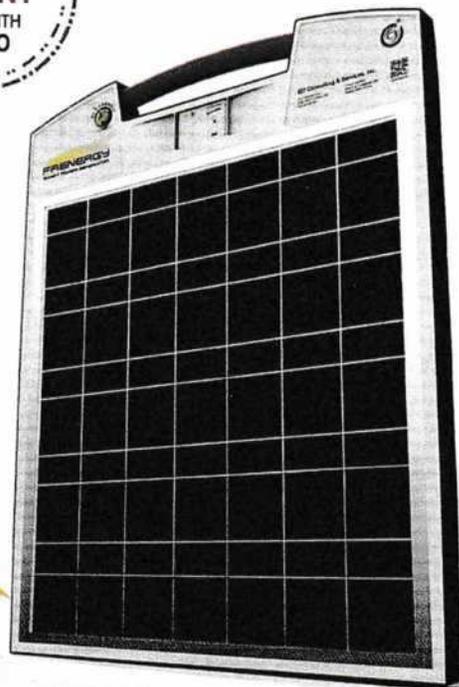
UNIT COST
MODERATE



WARRANTY
STANDARD



GENERATE
APPROX
220V/ AC
300 WATTS
PER DAY

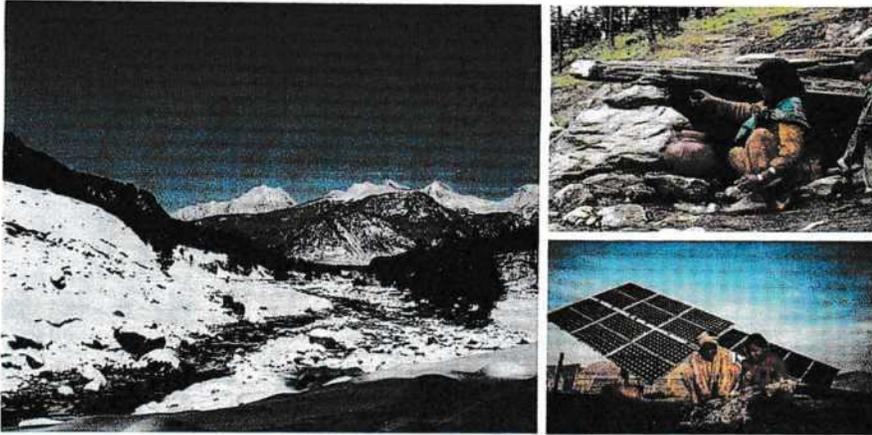


"The essence of the system is its compactness and ease of use. Affordable price and with minimum preparation prior to its use add to its acceptance by any user anywhere on this globe. This bring in smartness and make the user feel pride in using free abundant sun energy"





FREEHEAT PORTABLE SOLAR WATER HEATER



KEY FEATURES

STURDY DESIGN AND CONSTRUCTION



WEATHER PROOF

SYSTEM IS TESTED IN DIFFERENT WEATHER CONDITIONS & SCENARIOS



WATER CAPACITY

15 LITERS OF HOT WATER



HOT WATER AT 176°F (80°C) IN 3.5 HOURS



TEMPERATURE INDICATOR

RANGE(-58°F to 302°F) (-15°C to 150°C)



WEIGHT < 44 lbs / 20 Kgs LIGHT IN WEIGHT



COMPACT DESIGN

SMALLEST PRODUCT FOR POWER



MULTI-USE

USE BY ANYONE, ANYWHERE



PORTABLE

SINGLE PERSON PORTABILITY



GREEN PRODUCT

ENVIRONMENT FRIENDLY



RELIABILITY

100% SOLAR POWER



CORROSION RESISTANT

STAINLESS STEEL & FRP USED AS MATERIAL FOR STORAGE TANK



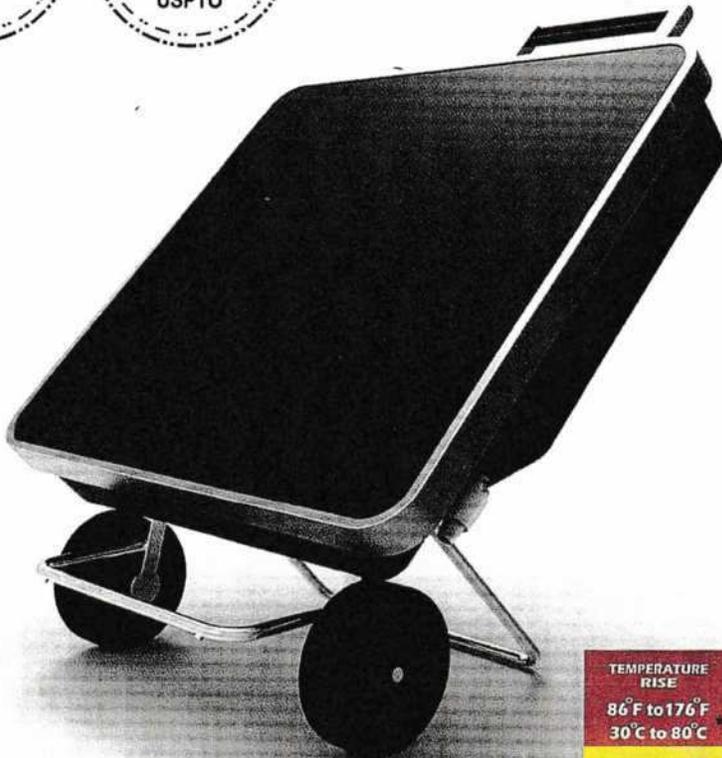
UNIT COST

MODERATE



WARRANTY

STANDARD



TEMPERATURE RISE
86°F to 176°F
30°C to 80°C
JUST IN *
3.5 HOURS

"The essence of the system is its compactness and ease of use. Affordable price and with minimum preparation prior to its use add to its acceptance by any user anywhere on this globe. This bring in smartness and make the user feel pride in using free abundant sun energy"



Manufactured and Marketed by:
IDT Consulting & Services, Inc.



**SUWI – An International Trademark for
USA, Europe and China. Patent Pending!**

CERTIFICATE OF SERVICE

I hereby certify that I mailed the foregoing RESPONDENT’S RESPONSE TO PETITION TO CANCEL to Attorney of Record for Petitioner by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Shane M. Rumbaugh, Esq.
1299 Pennsylvania Ave., NW
Suite 700
Washington, DC 20004

July 4, 2016

By: /s/ Sanjay Bhardwaj
Sanjay Bhardwaj