

ESTTA Tracking number: **ESTTA773526**

Filing date: **09/28/2016**

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	Mohammad Azhar Khan		
Entity	Individual	Citizenship	CANADA
Address	6083 A Yonge Street 2nd Floor Toronto, ON M2M3W2 CANADA		

Attorney information	Anthony E. Bennett Hoffmann & Baron, LLP 6900 Jericho Turnpike Syosset, NY 11791 UNITED STATES aebdocket@hbiplaw.com Phone:5168223550		
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Registration Subject to Cancellation

Registration No	4120165	Registration date	04/03/2012
International Registration No.	NONE	International Registration Date	NONE
Registrant	Bar B Q Tonight Global PTE. LTD. 16 Raffles Quay Singapore 048581, SINGAPORE		

Goods/Services Subject to Cancellation

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: CAFES; CAFETERIAS; RESTAURANTS, BUFFET RESTAURANTS, SELF-SERVICE RESTAURANTS; RESTAURANT SERVICES; TAKE-OUT FOOD SERVICES; CATERING SERVICES; BISTROS; SNACK-BAR AND COFFEE SHOP SERVICES; PREPARATION OF FOOD AND DRINK

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition_to_Cancel.PDF(13352 bytes) Exhibit_A.PDF(2198204 bytes) Exhibit_B.PDF(43667 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 Overnight Courier on this date.

Signature	/anthony e bennett/
Name	Anthony E. Bennett
Date	09/28/2016

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

Mohammad Azhar Khan.)	
)	
Petitioner,)	Cancellation No.:
)	
v.)	Registration No. 4,120,165
)	Trademark: Bar.B.Q. TONIGHT and design
Bar B Q Tonight Global PTE. LTD.)	Registered on: April 3, 2012
)	
Respondent.)	
)	
)	

PETITION TO CANCEL

Mohammad Azhar Khan (“Petitioner”), hereby petitions for cancellation of Registration No. 4,120,165 for the mark Bar. B. Q. TONIGHT and design, owned by Bar B Q Tonight Global PTE. LTD., and states as follows:

1. Petitioner is an individual of Canada citizenship having an address of 6083 A Yonge Street, 2nd Floor Toronto, Ontario Canada M2M3W2.

2. The United States Patent and Trademark Office records identify the Bar B Q Tonight Global PTE. LTD., (“Respondent”), with a correspondence address of 6 Raffles Quay #33-03 Hong Leong Building Singapore 048581, as the last listed owner of U.S. Registration No. 4,120,165 (“the Registration”), Exhibit A, for the mark BAR.B.Q. TONIGHT and design (“the Registered Mark”), in International Class 43 in connection with cafes; cafeterias; restaurants, buffet restaurants, self-service restaurants; restaurant services; take-out food services; catering services; bistros; snack-bar and coffee shop services; preparation of food and drink.

3. The United States Patent and Trademark Office records indicate that the Registration was issued on April 3, 2012.

4. On December 7, 2015, Petitioner filed an application for the BAR BQ TONITE, in connection with full service restaurant in International Class 43 based on an intent to use the mark in U.S. commerce. The application was assigned Serial No. 86/840,939 (“the Application”), Exhibit B.

5. The Application was examined and an Office Action was issued including a refusal of registration under Trademark Act Section 2(d), likelihood of confusion, in view of the Registration.

6. Petitioner has been, and continues to be, damaged in that the Registration has been cited against the Application as a basis for refusal of registration under Trademark Act Section 2(d).

Ground For Cancellation: Abandonment/ Non-Use of the Mark

7. Petitioner incorporates and re-alleges Paragraphs 1 through 6 above as if fully set forth herein.

8. Upon information and belief, Respondent has abandoned the Registered Mark in connection with the services listed in the Registration and has no intent to resume use.

9. Upon information and belief, Respondent has not used the Registered Mark in United States commerce in connection with the services listed in the Registration for the past three consecutive years.

10. Upon information and belief, Respondent has not used the Registered Mark in United States commerce in connection with the services listed in the Registration for three consecutive years following issuance of the Registration.

11. Petitioner is being damaged by the Registration, and hereby petitions to cancel the Registration.

WHEREFORE, Petitioner requests that U.S. Registration No. 4,120,165 for the mark BAR.B.Q. TONIGHT and design be cancelled and that this Petition be granted.

Respectfully submitted,
Mohammad Azhar Khan.

Dated: September 28, 2016

By: /anthony e bennett/
Anthony E. Bennett
Alexander G. Vodovozov
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791
Telephone: (516) 822-3550
Facsimile: (516) 822-3582
aebdocket@hbiplaw.com
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION TO CANCEL was served upon the Respondent's Domestic Representative by Express Mail, postage prepaid, on September 28, 2016, addressed to the following:

Steven G. Janoski
Roylance, Abrams, Berdo &
Goodman, L.L.P
1300 19th Street, N.W.
Suite 600
Washington D.C., 20036-1649
sjanoski@rolance.com

/anthony e bennett/
Anthony E. Bennett

Exhibit A

United States of America

United States Patent and Trademark Office



Reg. No. 4,120,165

Registered Apr. 3, 2012

Int. Cl.: 43

SERVICE MARK

PRINCIPAL REGISTER

BAR B Q TONIGHT GLOBAL PTE. LTD. (SINGAPORE A PRIVATE LIMITED COMPANY)
16 RAFFLES QUAY,
#33-03 HONG LEONG BUILDING; SINGAPORE 048581
SINGAPORE

FOR: CAFES; CAFETERIAS; RESTAURANTS, BUFFET RESTAURANTS, SELF-SERVICE RESTAURANTS; RESTAURANT SERVICES; TAKE-OUT FOOD SERVICES; CATERING SERVICES; BISTROS; SNACK-BAR AND COFFEE SHOP SERVICES; PREPARATION OF FOOD AND DRINK, IN CLASS 43 (U.S. CLS. 100 AND 101).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAR-B-Q", APART FROM THE MARK AS SHOWN.

PRIORITY DATE OF 11-26-2010 IS CLAIMED.

OWNER OF INTERNATIONAL REGISTRATION 1077587 DATED 3-22-2011, EXPIRES 3-22-2021.

THE COLOR(S) RED, GREY, YELLOW, BLACK & WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A BLACK BACKGROUND SURROUNDED BY A YELLOW DIAMOND SHAPED OUTLINE. THE LOWER PORTION OF THE DIAMOND FEATURES FLAMES IN RED AND WHITE AS WELL AS THE WORD "TONIGHT" IN WHITE. THE SPEAR LOCATED ACROSS THE MIDDLE OF THE DIAMOND IS GREY IN COLOR AND FEATURES THE WORDS, "BAR-B-Q" IN WHITE LETTERS OUTLINED IN RED. THE CHEF DESIGN IS WHITE WITH BLACK FLAMES.

SER. NO. 79-097,541, FILED 3-22-2011.

HOWARD SMIGA, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

Exhibit B

BAR BQ TONITE

Trademark/Service Mark Application, Principal Register

Serial Number: 86840939

Filing Date: 12/07/2015

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86840939
MARK INFORMATION	
*MARK	BAR BQ TONITE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BAR BQ TONITE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Mohammed Azhar Khan
*STREET	6083 A Yonge Street, 2nd Floor
*CITY	Toronto, Ontario
*COUNTRY	Canada
*ZIP/POSTAL CODE (Required for U.S. applicants)	M2M3W2
LEGAL ENTITY INFORMATION	
TYPE	individual
COUNTRY OF CITIZENSHIP	Canada
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	043
*IDENTIFICATION	full service restaurant
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Alexander G. Vodovozov
ATTORNEY DOCKET NUMBER	2435-10
FIRM NAME	Hoffmann & Baron, LLP
STREET	6900 Jericho Turnpike
CITY	Syosset
STATE	New York

COUNTRY	United States
ZIP/POSTAL CODE	11791
PHONE	516-822-3550
FAX	516-822-3582
EMAIL ADDRESS	agvdocket@hbiplaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Ronald J. Baron, Glenn T. Henneberger, Anthony E. Bennett, James F. Harrington, Steven T. Zuschlag, John T. Gallagher, Roderick S. Turner, Susan A. Sipos, Kevin E. McDermott, Lauren T. Emr, Linda D. Chin, Perry Y. Woo, Mark E. Baron, and Silvana M. Merlino each of them of HOFFMANN & BARON, LLP, 6900 Jericho Turnpike, Syosset, NY 11791; and Daniel A. Scola, Jr., Salvatore J. Abbruzzese, Ludomir A. Budzyn, John S. Sopko, Andrea M. Wilkovich, Ph.D., Stephen J. Brown, Mark E. Baron, Palaiyur S. Kalyanaraman, Ph.D., and Michael I. Chakansky, each of them of HOFFMANN & BARON, LLP, 6 Campus Drive, Parsippany, NJ 07054-4406.
CORRESPONDENCE INFORMATION	
NAME	Alexander G. Vodovozov
FIRM NAME	Hoffmann & Baron, LLP
STREET	6900 Jericho Turnpike
CITY	Syosset
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	11791
PHONE	516-822-3550
FAX	516-822-3582
*EMAIL ADDRESS	agvdocket@hbiplaw.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/alexander g. vodovozov/
SIGNATORY'S NAME	Alexander G. Vodovozov
SIGNATORY'S POSITION	Attorney of record, New York bar member
SIGNATORY'S PHONE NUMBER	516-822-3550
DATE SIGNED	12/07/2015

Trademark/Service Mark Application, Principal Register

Serial Number: 86840939

Filing Date: 12/07/2015

To the Commissioner for Trademarks:

MARK: BAR BQ TONITE (Standard Characters, see [mark](#))

The literal element of the mark consists of BAR BQ TONITE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Mohammed Azhar Khan, a citizen of Canada, having an address of
6083 A Yonge Street, 2nd Floor
Toronto, Ontario M2M3W2
Canada

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 043: full service restaurant

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The applicant's current Attorney Information:

Alexander G. Vodovozov and Ronald J. Baron, Glenn T. Henneberger, Anthony E. Bennett, James F. Harrington, Steven T. Zuschlag, John T. Gallagher, Roderick S. Turner, Susan A. Sipos, Kevin E. McDermott, Lauren T. Emr, Linda D. Chin, Perry Y. Woo, Mark E. Baron, and Silvana M. Merlino each of them of HOFFMANN & BARON, LLP, 6900 Jericho Turnpike, Syosset, NY 11791; and Daniel A. Scola, Jr., Salvatore J. Abbruzzese, Ludomir A. Budzyn, John S. Sopko, Andrea M. Wilkovich, Ph.D., Stephen J. Brown, Mark E. Baron, Palaiyur S. Kalyanaraman, Ph.D., and Michael I. Chakansky, each of them of HOFFMANN & BARON, LLP, 6 Campus Drive, Parsippany, NJ 07054-4406.
of Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791
United States

The attorney docket/reference number is 2435-10.

The applicant's current Correspondence Information:

Alexander G. Vodovozov
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agvdocket@hbiplaw.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the

application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /alexander g. vodovozov/ Date: 12/07/2015

Signatory's Name: Alexander G. Vodovozov

Signatory's Position: Attorney of record, New York bar member

RAM Sale Number: 86840939

RAM Accounting Date: 12/07/2015

Serial Number: 86840939

Internet Transmission Date: Mon Dec 07 12:15:04 EST 2015

TEAS Stamp: USPTO/BAS-XXX.XX.XXX.XXX-201512071215042

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-CC-9806-20151207111419440845

BAR BQ TONITE