

ESTTA Tracking number: **ESTTA271360**

Filing date: **03/11/2009**

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

Proceeding	92050260
Party	Defendant STW ACQUISITION CORP.
Correspondence Address	STW ACQUISITION CORP. 134-19 33RD AVENUE FLUSHING, NY 11354 UNITED STATES ptotmcommunications@morganfinnegan.com, sgreenberg@morganfinnegan.com, kkoustenis@morganfinnegan.com
Submission	Answer
Filer's Name	Scott Greenberg
Filer's e-mail	sgreenberg@lockelord.com
Signature	/Scott Greenberg/
Date	03/11/2009
Attachments	Answer_To_Petition_For_Cancellation.pdf (7 pages)(174084 bytes)

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

In the Matter of Registration No. 1,358,531
For the mark: WOK & ROLL
Registered: September 3, 1985

-----X		
Wok n' Roll Express, Inc	:	
	:	
Petitioner,	:	Cancellation No. 92050260
	:	
v.	:	
	:	
STW Acquisition Corp.	:	
	:	
Respondent	:	
-----X		

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO PETITION FOR CANCELLATION

Respondent STW Acquisition Corp., through its undersigned counsel, answers
Petitioner's Petition For Cancellation as follows:

1. Respondent admits the allegations of Paragraph 1 of the Petition For Cancellation.
2. Respondent admits the allegations of Paragraph 2 of the Petition For Cancellation.
3. Respondent admits the allegations of Paragraph 3 of the Petition For Cancellation.
4. Respondent admits the allegations of the first sentence of Paragraph 4 of the
Petition For Cancellation. Respondent lacks knowledge or information sufficient to form a belief
as to the truth of the remaining allegations set forth in paragraph 4 of the Petition For
Cancellation, and on that basis denies same.

5. Respondent denies the allegations of Paragraph 5 of the Petition For Cancellation.

6. Paragraph 6 of the Petition For Cancellation states a legal conclusion, which Respondent neither admits nor denies.

7. Respondent admits that the subject registration has been cited against Petitioner's application Serial No. 77/236212 and used as a basis for refusing registration thereof. Respondent denies the remaining allegations of Paragraph 7 of the Petition For Cancellation.

8. Respondent denies that it was not legally permitted to conduct business after June 26, 2002, and further denies the remaining allegations of Paragraph 8 of the Petition For Cancellation.

9. Respondent denies that the Petition For Cancellation sets forth proper grounds for cancellation of the subject registration, and on that basis denies the allegations of Paragraph 9 of the Petition For Cancellation.

10. Respondent admits that Petitioner's application Serial No. 77/236212 has been refused registration due to the subject registration of Respondent. Respondent denies the remaining allegations of Paragraph 10 of the Petition For Cancellation.

11. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Petition For Cancellation, and on that basis denies same.

12. With regard to the twelfth, unnumbered allegational paragraph in the Petition For Cancellation, Respondent admits that Petitioner will continue to be precluded from the ability to proceed with registration of Petitioner's application Serial No. 77/236212 due to Respondent's subject registration, Registration No. 1,358,351. Respondent denies that the renewal of the subject registration is invalid.

AFFIRMATIVE DEFENSES

13. The Petition For Cancellation fails to state a claim upon which relief can be granted.

14. No false or fraudulent statements were made in the Combined Declaration Of Use and Application For Renewal of Registration that was executed by Respondent on May 4, 2005 and filed by Respondent on May 23, 2005 in connection with the subject registration. The Combined Declaration of Use and Application for Renewal was proper.

15. The proclamation of dissolution of the Respondent corporation made by the Secretary of State of the State of New York on June 26, 2002 was annulled and the existence of the Respondent corporation revived, reinstated and continued by a certificate duly filed in the New York Department of State on December 1, 2008. A copy of the certification of reinstatement and annulment of dissolution, certified by Daniel Shapiro, Special Deputy Secretary of State of the State of New York, is attached as Exhibit A to this Answer. By virtue of the revival, reinstatement and continuation of the Respondent corporation, its corporate status was retroactively restored under New York Tax Law §203-a(7) and actions taken by the Respondent corporation between June 26, 2002 and December 1, 2008 are valid, including the execution and filing of Combined Declaration Of Use and Application For Renewal of Registration that was filed by Respondent in connection with the subject registration on May 4, 2005.

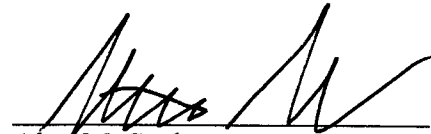
WHEREFORE, Respondent requests that Petitioner's Petition For Cancellation against the subject registration be dismissed with prejudice.

Respectfully submitted,

Locke Lord Bissell & Liddell LLP

Dated: March 11, 2009

By:



Alan M. Sack

Scott Greenberg

Locke Lord Bissell & Liddell LLP

3 World Financial Center

New York, NY 10281-2101

Telephone: (212) 415-8600

Facsimile: (212) 303-2754

Attorneys for Respondent

EXHIBIT A

State of New York
Department of State } **ss:**

I hereby certify, that the Certificate of Incorporation of STW ACQUISITION CORP. was filed on 07/27/1998, with perpetual duration, and that a diligent examination has been made of the Corporate index for documents filed with this Department for a certificate, order, or record of a dissolution, and upon such examination, no such certificate, order or record has been found, and that so far as indicated by the records of this Department, such corporation is an existing corporation. I further certify the following:

A Biennial Statement was filed 08/28/2000.

It was dissolved by proclamation of the Secretary of State published on 06/26/2002 pursuant to the Tax Law.

Such dissolution proceedings were annulled and the existence of the corporation revived, reinstated and continued by a certificate duly filed in this Department 12/01/2008 pursuant to the Tax Law.

The Biennial Statement is past due.

I further certify, that no other documents have been filed by such Corporation.



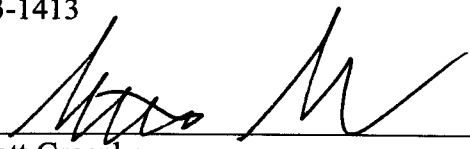
*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 27th day of February
two thousand and nine.*

Daniel Shapiro
Special Deputy Secretary of State

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the attached ANSWER TO PETITION FOR CANCELLATION was served by first class mail, postage prepaid, on this 11th day of March 2009 upon attorney of record for the Petitioner at the following address:

Marc N. Blumenthal, Esq.
Law Office of Marc N. Blumenthal
19 S La Salle Street, Suite 1500
Chicago, IL 60603-1413



Scott Greenberg