

ESTTA Tracking number: **ESTTA469243**

Filing date: **04/26/2012**

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	Carlisle Intangible Company		
Entity	Corporation	Citizenship	Delaware
Address	250 South Clinton Street Suite 201 Syracuse, NY 13202 UNITED STATES		

Attorney information	Theodore R. Remaklus Wood, Herron & Evans, L.L.P. 441 Vine Street 2700 Carew Tower Cincinnati, OH 45202 UNITED STATES tremaklus@whe-law.com
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Registration Subject to Cancellation

Registration No	1279656	Registration date	05/29/1984
Registrant	U.S. FOODSERVICE, INC. 9399 W. HIGGINS ROAD ROSEMONT, IL 60018 UNITED STATES		

Goods/Services Subject to Cancellation

Class 008. First Use: 1983/01/24 First Use In Commerce: 1983/01/24
All goods and services in the class are cancelled, namely: Stainless Steel Flatware

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation.pdf (5 pages)(22908 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	/theodore r remaklus/
Name	Theodore R. Remaklus
Date	04/26/2012

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

_____))
Carlisle Intangible Company,) Cancellation No. _____
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) Petitioner,))
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v.))
) Registration No. 1,279,656, IC 8
) Registered: May 29, 1984
))
U.S. Foodservices, Inc.,))
))
))
Respondent.))
_____))

PETITION FOR CANCELLATION

Petitioner, Carlisle Intangible Company, a Delaware corporation, having a place of business at 250 South Clinton Street, Suite 201, Syracuse, New York 13202 ("Petitioner"), believes that it is and will continue to be damaged by the registration of the mark shown in Registration No. 1,279,656 for the trademark CARLISLE and hereby petitions to cancel said registration.

GROUND FOR PETITION

As grounds for this petition, Petitioner alleges as follows:

1. Petitioner is the owner of United States Trademark Application Serial No. 85/082,364 (hereinafter "the '364 Application") filed July 12, 2010 under Section 1(b) of the Trademark Act mark for the mark CARLISLE, and United States Trademark Application Serial No. 85/082,365 (hereinafter "the '365 Application") filed July 12, 2010 under Section 1(b) of the Trademark Act for the mark CARLISLE FOODSERVICE PRODUCTS. Both the '364 Application and the '365 Application are for use in connection with the following goods:

Measuring cups; measuring spoons; one hour timers in IC 9

Electric heating units for buffet server; heat lamps for warming food; electric slow cookers; electric kettles in IC 11

Non-motorized dollies and non-motorized carts housing individual food warming units for institutional use, carts for holding catering equipment, namely, pan and tray carriers in IC 12

Plastic anti-slip gripper mats for holding crockery and cutlery in place, bottle racks, brush and broom storage racks, plastic storage containers and lids for food storage in the commercial and institutional service industries, ware washing racks, namely, cup racks, flatware racks, and plate racks in IC 20

Dinnerware, plates, bowls, server platters, cups and saucers, mugs, dish covers, plastic utensils, namely, cups, saucers, plates and bowls, plastic tableware, beverage ware, beverage glassware, wine glasses, goblets, coffee servers, tea pots, cream pitchers, sugar bowls, insulated food service ware, namely, mugs, soup bowls, desert bowls, food plates, covers for food plates, and domed food plate covers, dishes for dessert, cheese graters, sugar pourers, gravy boats, salt and pepper shakers, bud vases, beverage urns, pans for water, divided food pans, serving tongs, serving spoons, serving forks, kitchen ladles, punch bowls, cake servers and cake stands, serving trays, bottle holders, namely, bottle stands, pitchers and lids, pourer dispensers for liquors, champagne buckets, coolers for wine and juice, ice scoops, cocktail shakers, bottle openers, paper cup dispensers, dispensers for dispensing cup lids, beverage dispensers, portable beverage dispensers, toothpick dispensers, straw dispensers, packet dispensers, condiment pump dispensers, condiment squeeze bottles sold empty, all-purpose portable household containers, cookware, namely, pots and pans, sauce pots, sauce pans, sauté pans, lids for pans, stock pots, steamer baskets, double boilers, pasta cookers, non-electric fryer pans and baskets, double roaster pans, baking pans, roasting pans, pans for baking buns, cookie sheet pans, pie pans, bread pans, muffin tins and pizza pans, cutting boards, pastry brushes, basting brushes for meats, cleaning brushes for mushrooms, cleaning brushes for vegetables, utility brushes, namely, cleaning brushes for household use, brushes for washing up, namely, hand and nail brushes, bottle brushes for cleaning the insides of bottles, dish washing brushes, scrubbing brushes, cooking strainers, spatulas, pan scrapers, colanders, household utensils, namely, wire mesh skimmers, spaghetti cooking strainers, meat tenderizers, crumb sweepers, brooms, dusting brushes, dust pans, floor scrub brushes, cleaning brushes for tile and grout, dusters and wall and ceiling fan dusters, mops, window and floor squeegees, sponges for household purposes, trash cans, refuse and recycling bins, general purpose non-metal bins for food service use, all of the above for use in the commercial and institutional service industries in IC 21

Towels, tablecloths of textiles, fabric table runners, placemats not of paper, table pads, washing mitts in IC 24

Prepackaged condiments, namely salt, pepper, sugar, tea and coffee in IC 30

2. On October 27, 2011, the Examining Attorney of the '364 and '365 Applications issued Office Actions refusing to register the CARLISLE and CARLISLE FOODSERVICE PRODUCTS marks at least with respect to the goods in Class 21 (although the final refusal does not clearly state that the refusal is limited to that class) under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the grounds that the Examining Attorney concluded there was a likelihood of confusion with the CARLISLE mark of U.S. Registration No. 1,279,656, which is registered for use with "stainless steel flatware" in Class 3.

3. As a result of the Office Action in the '364 and '365 Applications refusing to register Petitioner's CARLISLE and CARLISLE FOODSERVICE PRODUCTS marks over the CARLISLE mark of U.S. Registration No. 1,279,656, Petitioner is being damaged by Registration No. 1,279,656 within the meaning of 15 U.S.C. § 1064.

4. On information and belief, Respondent U.S. Foodservice, Inc. is the owner of Registration No. 1,279,656, is a company with an address of 9399 Higgins Road, Rosemont, Illinois 60018, and has the following attorney of record:

Clay A. Tillack, Esq.
Schiff Hardin LLP
P.O. Box 06079
Chicago, Illinois 60606-0079

5. On information and belief, Respondent is not currently using the CARLISLE mark of Registration No. 1,279,656 in connection with the recited goods, it ceased using the CARLISLE mark of Registration No. 1,279,656 some time ago in connection with the recited good, and Respondent has no intent to use/resume use of the CARLISLE mark with those goods.

As a result, Respondent has abandoned the CARLISLE mark of Registration No. 1,279,656 within the meaning of 15 U.S.C. § 1064(3).

WHEREFORE, Petitioner prays that the Petition for Cancellation be sustained in favor of Petitioner and that U.S. Registration No. 1,279,656 for the CARLISLE mark be canceled.

The fee required under 37 C.F.R. § 2.6(a)(16) is being submitted herewith. The Commissioner is authorized to charge Deposit Account No. 23-3000 for any deficiencies in the filing fee and any and all other fees associated with filing the Petition for Cancellation.

Respectfully submitted,

CARLISLE INTANGIBLE COMPANY

Date: April 26, 2012

By: /s/ Theodore R. Remaklus
Theodore R. Remaklus
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Cancellation has been served by first class mail, postage prepaid, upon Respondent, U.S. Foodservices, Inc., 9399 Higgins Road, Rosemont, Illinois 60018, and upon its attorney of record, Clay A. Tillack, Esq. Schiff Hardin LLP, P.O. Box 06079, Chicago, Illinois 60606-0079, this 26th day of April, 2012.

/s/ Theodore R. Remaklus
Theodore R. Remaklus

Attorney for Petitioner
Carlisle Intangible Company