

ESTTA Tracking number: **ESTTA690801**

Filing date: **08/20/2015**

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	ZAKY Corp		
Entity	Corporation	Citizenship	California
Address	6622 Carnelian Street Rancho Cucamonga, CA 91701 UNITED STATES		

Attorney information	Joanna Y TSAI JYTLAW 12636 High Bluff Dr Ste 400 San Diego, CA 92130 UNITED STATES JYT@JYTLaw.com Phone:(619) 226-6337		
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Registration Subject to Cancellation

Registration No	3841097	Registration date	08/31/2010
Registrant	Ayyad, Ramzy 1101 San Pablo Ave Albany, CA 94706 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2008/09/30 First Use In Commerce: 2008/09/30 All goods and services in the class are cancelled, namely: Restaurant and catering services

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86697296	Application Date	07/17/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ZAKY MEDITERRANEAN GRILL		

Design Mark	ZAKY MEDITERRANEAN GRILL
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2006/02/06 First Use In Commerce: 2006/02/06 Restaurant and bar services; Restaurant and bar services, including restaurant carryout services; Restaurant and caf� services; Restaurant services featuring Mediterranean and related styles cuisine; Restaurant services, including sit-down service of food and take-out restaurant services; Restaurant services, namely, providing of food and beverages for consumption on and off the premises; Restaurant, bar and catering services

U.S. Application No.	86658237	Application Date	06/10/2015
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	ZAKY MEDITERRANEAN GRILL
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Description of Mark	The mark consists of "Zaky Mediterranean grill".
Goods/Services	Class 043. First use: First Use: 2006/02/06 First Use In Commerce: 2006/02/06 Food and catering, restaurant services

Attachments	86697296#TMSN.png(bytes) 86658237#TMSN.png(bytes) 2015_08_Zaki Cancellation 0820-2015.pdf(419196 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	/joannaytsai/
Name	Joanna Y TSAI
Date	08/20/2015

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

Zaky Corp.,

Petitioner,

Cancellation No. _____

Registration No. 3,841,097

Mark: ZAKI DELECTABLE
MEDITERRANEAN CUISINE
(Stylized)

Ayyad, Ramzy,

Registrant.

PETITION FOR CANCELLATION

Petitioner, Zaky Corp., believing it will be damaged by continued registration of U.S. Reg. No. 3,841,097, hereby petitions for cancellation of the registration pursuant to §14 of the Lanham Act, 15 U.S.C. §1064.

As grounds for this cancellation, Petition alleges:

1. Petitioner, Zaky Corp., (“Petitioner”) is a California corporation having its principal place of business at 6622 Carnelian Street, Alta Loma, California 91701.
2. On information and belief, Respondent, Ramzy Ayyad, (“Respondent”) is an individual with United States citizenship with the address of 1101 San Pablo Ave, Albany, California 94706.
3. Petitioner is the owner of the following trademark applications:
 - a. U.S. Application Serial No. 86/697,296, directed to the mark ZAKY MEDITERRANEAN GRILL (word mark), identifying the following services, “Restaurant and bar services; Restaurant and bar services, including restaurant carryout services; Restaurant and café services; Restaurant services featuring Mediterranean and related styles cuisine; Restaurant services, including sit-down service of food and take-out restaurant services; Restaurant services,

namely, providing of food and beverages for consumption on and off the premises; Restaurant, bar and catering services”; and

- b. U.S. Application Serial No. 86/658,237, directed to the mark ZAKY MEDITERRANEAN GRILL (stylized), identifying the following services, “Food and catering, restaurant services.”
4. Petitioner’s marks have been used in U.S. commerce in connection with these services since at least as early as February 6, 2006.
5. Respondent owns U.S. Reg. No. 3,841,097 (“Respondent’s Registration”) for the mark ZAKI DELECTABLE MEDITERRANEAN CUISINE (Stylized) (“Respondent’s Mark”) with a disclaimer in connection with the term “DELECTABLE MEDITERRANEAN CUISINE,” identifying “Restaurant and catering services” (“Respondent’s Services”).
6. On information and belief, Respondent did not begin using its mark in U.S. commerce in connection with Respondent’s Services until September 30, 2008.
7. On information and belief, Respondent ceased using its mark in U.S. commerce on or about June 1, 2014.
8. On information and belief, Respondent has no intention to resume using its mark in U.S. commerce in the future.
9. In comparing the Respondent’s Mark with the marks in Petitioner’s applications, based on the similarity of Respondent’s Mark and Petitioner’s marks, and the relatedness of Respondent’s Services when compared with the services in Petitioner’s applications, Petitioner asserts that Respondent’s Mark represents a likelihood of confusion in connection with the marks in Petitioner’s applications under §2(d) of the Lanham Act.
10. Based on this likelihood of confusion, Petitioner asserts that the continued registration of Respondent’s Mark tarnishes Petitioner’s reputation.
11. On numerous occasions and prior to Respondent’s closing of its business establishment, Petitioner has received customers’ comments of confusing the two businesses. Petitioner has multiple locations and believes that the Respondent’s mark created false association with Petitioner’s use in commerce, under §2(a) of the Lanham Act.

WHEREFORE Petitioner's first use of its marks in U.S. commerce predates Respondent's first use of its marks in U.S. commerce;

WHEREFORE Respondent's Mark represents a likelihood of confusion when compared with the marks in Petitioner's applications;

WHEREFORE Petitioner has ceased using its mark in U.S. commerce, with no intention of resuming use of the mark in the future;

THEREFORE Petitioner requests that Respondent's Registration, U.S. Trademark Registration No. 3,841,097, be canceled based on the following grounds:

- a. Petitioner's prior use of its confusingly similar mark(s); and
- b. Respondent's abandonment of Respondent's Mark
- c. Respondent's Mark creates a false association as to source of services with Petitioner.

Respectfully submitted,

JYTLAW

Dated: August 20, 2015

By: 

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Attorney for Petitioner
Zaky Corp.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PETITION FOR CANCELLATION upon the Respondent by causing a true and correct copy thereof to be sent on August 20, 2015 by First Class Mail, postage prepaid, to Respondent's address of record:

Ramzy Ayyad
1101 San Pablo Ave
Albany, California 94706

Dated: AUG 20 2015


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