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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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	CALIFORNIA KEBAB PB RESTAURANT, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	4150 Mission Blvd #208 San Diego, CA 92109 UNITED STATES		

Attorney information	April L. Besl Dinsmore & Shohl LLP 255 E 5th Street Cincinnati, OH 45202 UNITED STATES Email: april.besl@dinsmore.com, tmdocket@dinslaw.com, leanthony.edwards@dinsmore.com

Registration Subject to Cancellation

Registration No.	4862271	Registration date	12/01/2015
Registrant	Seminole Tribe of Florida 6300 Stirling Road Hollywood, FL 33024 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2007/08/00 First Use In Commerce: 2007/08/00
All goods and services in the class are subject to cancellation, namely: Bar services

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)

Attachments	Petition to Cancel WHAMMY BAR.pdf(14887 bytes)

Signature	/Leanthony D. Edwards Jr./
Name	Leanthony D. Edwards Jr.
Date	10/30/2017

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

CALIFORNIA KEBAB PB RESTAURANT, LLC	)	
Petitioner,	)	Cancellation No. _____
	)	Mark: WHAMMY BAR Reg. No. 4862271
SEMINOLE TRIBE OF FLORIDA, FEDERALLY-RECOGNIZED INDIAN TRIBE	)	
Respondent.	)	

PETITION FOR CANCELLATION

Petitioner, California Kebab PB Restaurant, LLC (hereafter "Petitioner"), hereby files this Petition for Cancellation against U.S. Trademark Registration No. 4862271 registered with the United States Patent and Trademark Office and as grounds for its cancellation, Petitioner alleges as follows:

1. Petitioner is a Limited Liability Company of the state of California with an address of 4150 Mission Blvd #208, San Diego, California 92109.

2. Petitioner believes that it has been, and will continue to be damaged by the mark WHAMMY BAR as shown in Registration No. 4862271 (the "Registration"), and hereby petitions to cancel the same for the goods set forth in the registration, namely:

"*Bar services"* in Class 43

(hereinafter referred to as "Registrant's Services").

3. Petitioner is the owner of the application for WHAMMY BAR WHEAT as reflected by U.S. Serial No. 87068056 (the "Application").

4. 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), 15 U.S.C. § 1052(d).

5. Upon information and belief, Respondent Seminole Tribe of Florida ("Respondent"), is the owner of the Registration.

6. Upon information and belief, Respondent is a Federally-Recognized Indian Tribe with an address of 6300 Stirling Road, Hollywood, Florida 33024.

7. Respondent filed Application Serial No. 86525217 that matured into Registration No. 4862271 on December 1, 2015, under Section 1(a) of the Trademark Act which asserted first use of the mark dating back to August 2007.

8. Upon information and belief, Respondent has abandoned the WHAMMY BAR mark shown in the Registration pursuant to 15 U.S.C. §1064(3) by shutting down all operation of its "bar services" business in connection with this mark.

9. Upon information and belief, Respondent is not currently using the WHAMMY BAR mark as shown in the Registration in connection with Registrant's Services.

10. Upon information and belief, Respondent has shut down its operations of the "bar services" in the Registration and therefore abandoned the WHAMMY BAR mark as shown in the Registration with no intent to resume use.

11. Respondent's non-use of the WHAMMY BAR mark as shown in the Registration in connection with Registrant's Services, with no intent resume use, thereby constitutes prima facie evidence of abandonment of the WHAMMY BAR mark as shown in the Registration.

12. In view of Respondent's non-use and abandonment of the WHAMMY BAR mark as shown in the Registration, Respondent is not entitled to continued registration of the mark pursuant to 15 U.S.C. § 1064(3), and as such, the Registration should be cancelled.

13. As any attempt by Petitioner to register the mark shown in the Application will be impaired by the continued registration of the Registration, and as Petitioner believes that Respondent has abandoned the mark as shown in the Registration with no intent to resume use, said Registration should be cancelled.

Petitioner reserves the right to amend this Petition to allege other claims in the event further information that indicates they are appropriate is discovered. The cancellation fee in the amount of $400.00 is filed herewith.

WHEREFORE, Petitioner prays that U.S. Trademark Registration No. 4862271 be cancelled and that this cancellation be sustained in Petitioner's favor.

Petitioner requests such other and further relief as the Board may deem just and proper.

Date: October 30, 2017

Respectfully submitted,

/Leanthony D. Edwards Jr./

April L. Besl
Candace L. Moon
Leanthony D. Edwards Jr.
DINSMORE & SHOHL LLP
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8527-direct
(513) 977-8141-fax
E-mail: april.besl@dinsmore.com
candace.moon@dinsmore.com
leanthony.edwards@dinsmore.com
Attorneys for Petitioner
California Kebab PB Restaurant, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Cancellation has been served upon the following by U.S. First Class Mail this 30th day of October, 2017:

Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

/Leanthony D. Edwards Jr./
Leanthony D. Edwards Jr.