

ESTTA Tracking number: **ESTTA922364**

Filing date: **09/14/2018**

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

|                        |   |
|------------------------|---|
| Proceeding             | 92068862  |
| Party                  | Defendant<br>World Mart USA Inc.  |
| Correspondence Address | World Mart USA Inc.<br>1 Caraway Court<br>Lumberton, NJ 08048<br>UNITED STATES<br>hoonerbaweja@gmail.com<br>no phone number provided  |
| Submission             | Motion for Relief from entry of Default Judgment  |
| Filer's Name           | Charles M. Landrum III  |
| Filer's email          | CLandrum@BrientIP.com, Info@BrientIP.com  |
| Signature              | / Charles M. Landrum III /  |
| Date                   | 09/14/2018  |
| Attachments            | 2018-09-14 - 1174-07001-US - Motion to Set Aside Default.pdf(330112 bytes )<br>2018-09-14 - 1174-07001-US - Motion to Dismiss.pdf(62985 bytes )<br>2018-09-14 - 1174-07001-US - Answer.pdf(505060 bytes ) |

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

Cancellation No. 92068862  
Reg. No. 5,351,922  
Mark: THE GREAT AMERICAN STORE

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|                        |   |
|------------------------|---|
| SAM HEDAYA CORPORATION | ) |
|                        | ) |
| <i>Petitioner,</i>     | ) |
|                        | ) |
| v.                     | ) |
|                        | ) |
| WORLD MART USA INC.    | ) |
|                        | ) |
| <i>Registrant.</i>     | ) |

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**MOTION TO SET ASIDE DEFAULT**

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Pursuant to Rule 55(c), Registrant World Mart USA Inc. for good cause moves to set aside the Board’s August 29, 2018 Notice of Default. [Doc. 4].

**I. ARGUMENT**

“Because default judgments for failure to timely answer the complaint (*i.e.*, the notice of opposition) are not favored by the law, a motion under Fed. R. Civ. P. 55(c) and 60(b) seeking relief from such a judgment is generally treated with more liberality by the Board than are motions under Fed. R. Civ. P. 60(b) for relief from other types of judgments.” *Miracle 7, Inc. v. Umbrella Naturals, LLC*, Opp. No. 91216265, 2015 WL 9906645, at \*1 (Feb. 2, 2015) (citing *Information Sys. and Networks Corp. v. U.S.*, 994 F.2d 792, 795 (Fed. Cir. 1993) (“Rule 60(b) is applied most liberally to judgments in default.”) (internal quotation marks and other citations omitted)). “Accordingly, the Board is very reluctant to enter a default judgment for failure to file a timely answer, and tends to resolve any doubt on the matter in favor of the defendant.” TBMP

§ 312.03; see also *Alpine Mortg. Corp. v. The Mortg. Dept., Inc.*, Opp. No. 91166379, 2006 WL 2401271 (Aug. 14, 2006) (same) (citing TBMP § 312.03 (2004)).

“As a general rule, good cause to set aside a defendant’s default will be found where the defendant’s delay has not been willful or in bad faith, when prejudice to the plaintiff is lacking, and where defendant has a meritorious defense.” *Franklin Int’l, Inc. v. Conglom, Inc.*, Cancellation No. 9205846, 2014 WL 11034338, at \*1 (June 23, 2014) (citing *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 U.S.P.Q.2d 1556 (TTAB 1991)).

Here, each factor weighs strongly in favor of setting aside the notice of default.

**A. Registrant’s Delay Has Not Been Willful or in Bad Faith**

As set forth in the accompanying affidavit of Registrant’s owner, Hooner Baweja, Registrant failed to respond in a timely manner to the Petition for Cancellation due to mistake or inadvertence on the part of Registrant. [Declaration of Hooner Baweja, ¶3]. As set forth below, Registrant’s mistake or inadvertence arose from its misunderstanding about the nature of cancellation proceedings.

Specifically, Registrant understood that the 30-day opposition period had passed without opposition and the registration had issued. [Id., ¶4]. In light of that, Registrant mistakenly believed that there was no basis for Petitioner’s threats to cancel its registration. [Id., ¶5]. Registrant did not understand that the cancellation proceeding sought to terminate its trademark registration even after issuance. [Id., ¶6]. On August 10, 2018, Mr. Baweja left the country and traveled to India. [Id., ¶7]. On August 13, 2018, the deadline passed for Registrant to respond.

On August 30, 2018, Registrant received the Notice of Default. [Id., ¶8]. Registrant promptly retained counsel on September 4, 2018 to respond to the notice. [Id., ¶9].

As set forth above, Registrant's failure to respond to the Petition for Cancellation was due to mistake or inadvertence. Registrant's failure to respond neither was willful nor in bad faith. [Id., ¶10]. Therefore, this factor weighs strongly in favor of setting aside the Notice of Default.

**B. There Is No Prejudice to the Opposer**

Prejudice includes whether “witnesses or evidence have become unavailable due to the passage of time, or ... any other substantial prejudice.” *Delorme Publishing Company, Inc. v. Eartha's, Inc.*, 60 U.S.P.Q.2d 1222, 2000 WL 33321172, \*2 (T.T.A.B. Nov. 2, 2000).

Registrant is not aware of any witnesses or evidence that have become unavailable due to the passage of time or any other substantial prejudice to Opposer. [Baweja Declaration, ¶11]. Therefore, this factor weighs heavily in favor of setting aside the notice of default.

**C. Registrant Has a Meritorious Defense**

“The showing of a meritorious defense does not require an evaluation of the merits of the case. All that is required is a plausible response to the allegations in the complaint.” TBMP §312.03; *Delorme*, 60 U.S.P.Q.2d 1222, 2000 WL 33321172 \*2 (T.T.A.B. Nov. 2, 2000). “When a defendant who has not yet filed an answer to a complaint files a response to a notice of default, or to a motion for default judgment, the late answer normally should be submitted with the response.” TBMP § 312.01.

As set forth in Registrant's accompanying Motion to Dismiss, Registrant has a meritorious defense in that Petitioner fails to state a claim upon which relief may be granted as to its allegations of fraud on the Trademark Office.

Still further, Registrant has attached its Answer and Defenses to the Petition for Cancellation, in which Registrant responds to the allegations therein. Pursuant to Rule 8(b)(1)(A) and Rule 8(c), Registrant states six meritorious defenses. Therefore, this factor weighs heavily in favor of setting aside the Notice of Default.

## II. CONCLUSION

Default judgments are not favored under the law and the Board is “very reluctant to enter a default judgment for failure to file a timely answer.” TBMP § 312.03. Each of the factors relevant to good cause under Rule 55(c) weigh strongly in favor of setting aside the entry of default: the absence of willfulness or bad faith on Registrant’s part, the absence of prejudice to Opposer, and Registrant having a meritorious defense. All of these factors weigh heavily in favor of setting aside the Notice of Default and “any doubt on the matter” should be resolved in favor of Registrant. TBMP § 312.03.

Accordingly, Registrant respectfully requests that the Board set aside the Notice of Default, grant Registrant’s Motion to Dismiss, accept the Answer and Defenses to the Petition for Cancellation attached hereto, and set a schedule for this proceeding to be decided on the merits.

Date: September 14, 2018

s/ Charles M. Landrum III

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Charles M. Landrum III

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*Attorney for Registrant,  
World Mart USA Inc.*

**Certificate of Service**

I hereby certify that a true and complete copy of the foregoing *Motion to Set Aside Default* has been served on the following counsel of record on September 14, 2018, via email to:

Joseph E. Sutton  
LAW OFFICES, EZRA SUTTON, P.A.  
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*Counsel for Petitioner*

s/ Charles M. Landrum III  
\_\_\_\_\_  
*Attorney for Registrant*

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

Cancellation No. 92068862  
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| SAM HEDAYA CORPORATION | ) |
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| <i>Petitioner,</i>     | ) |
|                        | ) |
| v.                     | ) |
|                        | ) |
| WORLD MART USA INC.    | ) |
|                        | ) |
| <i>Registrant.</i>     | ) |

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**DECLARATION OF HOONER BAWEJA**

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I, Hooner Baweja, declare and state as follows:

1. I am of legal age and competent to testify in this matter and I submit this declaration based on my personal knowledge of the matters set forth herein.
2. I am the owner of Registrant World Mart USA Inc.
3. The failure to respond to the Petition for Cancellation was due to mistake or inadvertence.
4. Registrant understood that the 30-day opposition period had passed without opposition and the registration had issued.
5. Registrant believed that there was no basis for Petitioner's threats to cancel its registration.
6. Registrant did not understand that the cancellation proceeding sought to terminate its trademark registration even after issuance.
7. On August 10, 2018, I left the country and traveled to India.
8. On August 30, 2018, Registrant received the Notice of Default.
9. On September 4, 2018, I retained counsel to respond to the Notice of Default.

10. Registrant did not willfully fail to respond to this Cancellation or do so in bad faith.
11. Registrant is not aware of any witnesses or evidence that have become unavailable due to the passage of time or any other substantial prejudice to Petitioner in this Cancellation.
12. Registrant has a meritorious defense to this Cancellation, as set forth in its Answer and Defenses to the Petition for Cancellation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Date: 09/12/2018

By: Hooner Baweja  
Hooner Baweja



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

Cancellation No. 92068862  
Reg. No. 5,351,922  
Mark: THE GREAT AMERICAN STORE

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SAM HEDAYA CORPORATION )  
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 *Petitioner,* )  
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 v. )  
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 WORLD MART USA INC. )  
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 *Registrant.* )

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**MOTION TO DISMISS**

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Pursuant to Rules 9(b) and 12(b)(6), Registrant World Mart USA Inc. moves to dismiss Petitioner’s claim of fraud for failure to state the claim with particularity and for failure to state a claim upon which relief may be granted.

**I. INTRODUCTION**

In paragraph 12, Petitioner asserts a fraud claim based solely on it having sent a letter to Registrant claiming superior rights—a letter sent by Petitioner three months after the Trademark Office suspended Petitioner’s trademark application in light of Registrant’s prior filing:

*Upon information and belief, Registrant has fraudulently obtained the ‘922 registration with the U.S. Patent and Trademark Office, in that the application filed by Registrant filed a Statement of Use under oath that was false. Specifically, the Statement of Use essentially attests that World Mart was not aware of any other party who has the right to use a mark that is similar to its mark. The false statements under oath in its application to register were filed just one day after the date of Petitioner’s letter sent to World Mart and advising them of Petitioner’s earlier use of its similar mark and thus earlier rights in a highly similar mark for similar or the same goods etc. Such statements were deliberately deceiving and a misrepresentation to the U.S. Patent and Trademark Office. Such actions were to Petitioner’s damage and detriment. As such, the ‘922 registration is subject to cancellation, is invalid and unenforceable.*

These allegations fail to satisfy the requirement that Petitioner plead a claim of fraud with particularity under Rule 9(b). The allegations also fail to state a claim upon which relief may be granted and should be dismissed under Rule 12(b)(6).

## II. ARGUMENT

“In lieu of filing an answer, applicant has filed a motion to dismiss.” *Pro-Football Inc. v. Nocona Leather Goods Co.*, 48 U.S.P.Q.2d 1543 (T.T.A.B. June 8, 1998). “A motion to dismiss for failure to state a claim upon which relief can be granted is a test solely of the sufficiency of the complaint.” *Wise F&I, LLC v. AllState Ins. Co.*, 120 U.S.P.Q.2d 1103, 2016 WL 6777774, \*7 (T.T.A.B. Sept. 23, 2016) (citing *Advanced Cardiovascular Sys. Inc. v. SciMed Life Sys. Inc.*, 988 F.2d 1157, 26 U.S.P.Q.2d 1038, 1041 (Fed. Cir. 1993); *NSM Research Corp. v. Microsoft Corp.*, 113 U.S.P.Q.2d 1029, 1032 (T.T.A.B. 2014); TBMP § 503.02 (2016)).

“[A] pleading of fraud in procuring a trademark registration requires an allegation that an applicant for registration knowingly made specific false, material representations of fact in connection with an application to register a mark with the intent of obtaining a registration to which it was otherwise not entitled.” *RLP Ventures, LLC v. Focus Approach, LLC*, Opp. 91228593, 2017 WL 4054467, \*5 (Sept. 8, 2017) (not precedential; citing *In re Bose Corp.*, 580 F.3d 1240, 91 U.S.P.Q.2d 1938, 1941 (Fed. Cir. 2009)). “In determining the sufficiency of fraud allegations, Federal Rule of Civil Procedure 9(b) requires identification of the specific who, what, when, where, and how of the material misrepresentation or omission committed before the USPTO.” *RLP Ventures*, 2017 WL 4054467 at \*5 (citing *Petroleos Mexicanos v. Intermix S.A.*, 97 U.S.P.Q.2d 1403 (T.T.A.B. 2010) (citing *Asian and Western Classics B.V. v. Selkow*, 92 U.S.P.Q.2d 1478, 1478 (T.T.A.B. 2009)) (elements of fraud must be pleaded with particularity); *Exergen Corp. v. Wal-Mart Stores Inc.*, 575 F.3d 1312, 91 U.S.P.Q.2d 1656, 1667 (Fed. Cir. 2009) (allegations of inequitable conduct in patent cases require pleadings of specific conduct upon which allegation is based)).

“A pleading that simply alleges the substantive elements of fraud, without setting forth the particularized factual bases for the allegation, does not satisfy Rule 9(b).” *RLP Ventures*, 2017 WL 4054467 at \*5 (citing *Exergen*, 575 F.3d at 1327 (citing *King Auto., Inc. v. Speedy Muffler King, Inc.*, 667 F.2d 1008, 212 U.S.P.Q. 801, 802–03 (C.C.P.A. 1981)). “Knowledge and intent, as conditions of mind of a person, may be averred generally in support of an allegation of fraud.” *RLP Ventures*, 2017 WL 4054467 at \*5 (citing Rule 9(b); *DaimlerChrysler Corp. v. American Motors Corp.*, 94 U.S.P.Q.2d 1086, 1088 (T.T.A.B. 2010)). “However, pleadings must allege sufficient underlying facts from which the Board may reasonably infer that a party acted with the requisite state of mind.” *RLP Ventures*, 2017 WL 4054467 at \*5 (citing *Asian and Western Classics*, 92 U.S.P.Q.2d at 1479).

“Petitioner did not properly plead a fraud claim based on allegations that the application and statement of use declarations were executed fraudulently in that there was another user of the same or a confusingly similar mark with superior rights at the time the declarations were signed.” *Shiseido Americas Corp. v. Harry’s Truck Stop*, Canc. 9205942, 2016 WL 3357263, \*6 (June 3, 2016). “Such a fraud claim requires a pleading of allegations of particular facts under Fed. R. Civ. P. 9(b) which, if proven, would establish that...”

*1) there was in fact another user of the same or a confusingly similar mark at the time the declaration or oath was signed;*

*2) the other user had legal rights superior to applicant’s;*

*3) applicant knew that the other user had rights in the mark superior to applicant’s, and either believed that a likelihood of confusion would result from applicant’s use of its mark or had no reasonable basis for believing otherwise;*

*and*

*4) applicant, in failing to disclose these facts to the U.S. Patent and Trademark Office, intended to procure a registration to which it was not entitled.*

*Id.* (citing *Qualcomm Inc. v. FLO Corp.*, 93 U.S.P.Q.2d 1768, 1770 (T.T.A.B. 2010); *Intellimedia Sports Inc. v. Intellimedia Corp.*, 43 U.S.P.Q.2d 1203, 1205 (T.T.A.B. 1997); *Ohio State Univ. v. Ohio Univ.*, 51 U.S.P.Q.2d 1289, 1293 (T.T.A.B. 1999)).

“In *King Automotive*, a trademark registrant filed a petition with the PTO declaring that, to the best of its knowledge, no third party had the right to use the mark ‘SPEEDY MUFFLER KING’ or a confusingly similar mark.” *Exergen*, 575 F.3d at 1328 (citing 667 F.2d at 1010). “A competitor then sought to cancel the mark under § 38 of the Lanham Act alleging, among other things, that the registrant’s statement was ‘known ... to be untrue’ and was made with ‘intent to deceive’ the PTO because the registrant had previously obtained a trademark search report showing a third party’s use of a confusingly similar mark, namely, ‘MUFFLER KING.’ ” *Exergen*, 575 F.3d at 1328 (citing *King Automotive*, 667 F.2d at 1009 & n. 3).

“Our predecessor court, the Court of Customs and Patent Appeals, found this pleading deficient under Rule 9(b).” *Exergen*, 575 F.3d at 1328. That court held:

*Even if the disclosures in the trademark search report supported appellant’s contention that [the registrant] knew of the alleged third-party use of MUFFLER KING (and on this point we express no opinion), appellant’s conclusory statement that [the registrant] knew its declaration to be untrue is not supported by a pleading of any facts which reflect [the registrant’s] belief that the respective uses of MUFFLER KING and SPEEDY MUFFLER KING would be likely to confuse.*

*Exergen*, 575 F.3d at 1328 (citing *King Automotive*, 667 F.2d at 1011). “Thus, the registrant’s knowledge of MUFFLER KING, standing alone, was not enough to infer that the registrant also subjectively believed that the mark was confusingly similar to SPEEDY MUFFLER KING.”

*Exergen*, 575 F.3d at 1328. “The pleading thus failed to allege sufficient underlying facts to support a reasonable inference that the registrant knew its statement to be false or that it intended to deceive the PTO.” *Id.* (citing *King Automotive*, 667 F.2d at 1011).

Here, Petitioner “has failed to allege that applicant knew that opposer had rights in the mark superior to applicant’s, and either believed that a likelihood of confusion would result from applicant’s use of its mark or had no reasonable basis for believing otherwise; and that applicant, in so failing to disclose, intended to procure a registration to which it was not entitled.” *Qualcomm*, 93 U.S.P.Q.2d 1768 at \*2.

Rather, Petitioner has alleged nothing more than it sent the equivalent of an unsolicited “search report” to Registrant identifying its claimed rights. As in *King Automotive*, Petitioner has failed to allege fraud with particularity or to state a claim upon which relief may be granted.

### **III. CONCLUSION**

Petitioner fails to state its claim of fraud with particularity and fails to state a claim upon which relief may be granted. The Board should not hesitate to dismiss the claim with prejudice.

Date: September 14, 2018

s/ Charles M. Landrum III

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Charles M. Landrum III

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*Attorney for Registrant,  
World Mart USA Inc.*

**Certificate of Service**

I hereby certify that a true and complete copy of the foregoing *Motion to Dismiss* has been served on the following counsel of record on September 14, 2018, via email to:

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*Counsel for Petitioner*

s/ Charles M. Landrum III  
\_\_\_\_\_  
*Attorney for Registrant*

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|                        | ) |
| <i>Registrant.</i>     | ) |

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**ANSWER AND DEFENSES**

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**I. ANSWER**

Pursuant to Rule 8(b)(1)(B), Registrant World Mart USA Inc. answers the allegations of the Petition for Cancellation filed by Petitioner Sam Hedaya Corporation as follows:

1. Admitted.
2. Admitted.
3. Registrant lacks knowledge or information sufficient to form a belief about the truth of paragraph 3.
4. Registrant admits that it first used its trademark THE GREAT AMERICAN STORE no later than June 2003. Registrant denies that its rights in its trademark THE GREAT AMERICAN STORE are inferior to any putative rights of Petitioner. Registrant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 4.

5. Registrant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 5.
6. Registrant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 6.
7. Denied.
8. Registrant denies that Petitioner's trademark has acquired significant distinctiveness or goodwill, or is well-known and recognized by consumers or the retail trade. Registrant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 8.
9. Registrant denies that any putative rights of Petitioner are "senior" or "superior" to the rights of Registrant or that Petitioner has priority over Registrant. Registrant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 9.
10. Registrant admits that both parties' marks contain the words "GREAT" and "AMERICAN." Registrant denies the remaining allegations in paragraph 10.
11. Registrant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 11.
12. Registrant admits that it attested that it is not aware of any other party who has the right to use a mark that is similar to its mark. Registrant admits that it received a letter from Petitioner. Registrant denies the remaining allegations in paragraph 12.



## **II. DEFENSES, AVOIDANCES, AND AFFIRMATIVE DEFENSES**

Pursuant to Rule 8(b)(1)(A) and Rule 8(c), Registrant states its defenses, avoidances, and affirmative defenses to the claims set forth in the Petition for Cancellation as follows:

### **A. Failure to State a Claim Upon Which Relief May Be Granted**

13. Petitioner fails to state a claim upon which relief may be granted.

### **B. No Likelihood of Confusion, Mistake, or Deception**

14. Registrant states that there is no likelihood of confusion, mistake, or deception as defined by 15 U.S.C. § 1052(d) *vis-à-vis* the '581 Registration and the mark claimed by Petitioner.

### **C. No Potential for Harm**

15. Registrant states that there is no likelihood of damage to Petitioner from the Board permitting the '922 Registration to remain on the Principal Register.

### **D. Laches**

16. On August 18, 2018, the Trademark Office suspended Petitioner's trademark application, as shown in Exhibit A, and gave notice to Petitioner of Registrant's U.S. Application No. 87262143, which matured into the '922 Registration.

17. The '922 Registration issued on December 5, 2017.

18. Yet Petitioner delayed filing this proceeding or taking any action against Registrant for almost seven months, until July 2, 2018.

19. During the period of Petitioner's undue or unreasonable delay in filing for cancellation of the '381 Registration, Registrant changed its economic position by its continued use, promotion, and development of the mark THE GREAT AMERICAN STORE.

20. Registrant will suffer economic damage as a direct function of the delay involved and would be subject to economic prejudice if the '922 Registration were to be cancelled.

21. Accordingly, the petition should be refused under the doctrine of laches.

**E. Abandonment**

22. Petitioner has not been diligent in protecting its rights in the putative GREAT AMERICAN LINENS mark.
23. Numerous third parties use the phrase “American Linen” or “American Linens” standing alone or in conjunction with other words.
24. The putative GREAT AMERICAN LINENS mark, to the extent that it ever existed, has lost all significance as an indicator of a source of goods.
25. Accordingly, Petitioner has abandoned any rights in the putative GREAT AMERICAN LINENS mark.

**F. Unclean Hands: Fraud in the Misuse of Trademark Registration Symbol**

26. Petitioner improperly uses the federal registration symbol in connection with its alleged GREAT AMERICAN LINENS mark, as shown in its specimen of use submitted with the '068 Application and attached hereto at Exhibit B.
  27. On information and belief, Petitioner began making improper use of the federal registration symbol after the '360 Registration had been cancelled and prior to Petitioner filing the '068 Application.
  28. On information and belief, Petitioner made such improper use deliberately and intended to deceive or mislead the public.
  29. Accordingly, Petitioner has unclean hands and the petition for cancellation should be refused.
- WHEREFORE, Registrant prays that the Board dismiss the proceeding and permit the '922 Registration to remain on the Principal Register.

Date: September 14, 2018

s/ Charles M. Landrum III

---

Charles M. Landrum III

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Email: CLandrum@BrientIP.com  
Info@BrientIP.com

*Attorney for Registrant,  
World Mart USA Inc.*

### **Certificate of Service**

I hereby certify that a true and complete copy of the foregoing *Answer and Defenses* has been served on the following counsel of record on September 14, 2018, via email to:

Joseph E. Sutton  
LAW OFFICES, EZRA SUTTON, P.A.  
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*Counsel for Petitioner*

s/ Charles M. Landrum III

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*Attorney for Registrant*

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 v. )  
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 WORLD MART USA INC. )  
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 *Registrant.* )

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**EXHIBIT A**

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**To:** Sam Hedaya Corporation ([trademarks@ezrasutton.com](mailto:trademarks@ezrasutton.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87381068 - GREAT AMERICAN LINENS - Hedaya014B  
**Sent:** 8/8/2017 9:52:00 PM  
**Sent As:** ECOM107@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION  
SERIAL NO.** 87381068

**MARK:** GREAT  
AMERICAN LINENS

**\*87381068\***

**CORRESPONDENT**

**ADDRESS:**  
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**GENERAL TRADEMARK  
INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** Sam  
Hedaya Corporation

**CORRESPONDENT'S  
REFERENCE/DOCKET  
NO:**

Hedaya014B

**CORRESPONDENT E-  
MAIL ADDRESS:**

[trademarks@ezrasutton.com](mailto:trademarks@ezrasutton.com)

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 8/8/2017**

Upon further review of the Office records, the trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.* The examining attorney apologizes for any inconvenience the delay in raising this issue has caused applicant.

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) is attached.

- Application Serial No(s). 87262143 (applies to Class 24 only)

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or

Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

/Yatsye I. Lee/  
Trademark Examining Attorney  
Law Office 107  
Phone: 571-272-3897  
yatsye.lee@uspto.gov (for informal inquiries)

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Aug 8, 2017

87262143

**DESIGN MARK**

**Serial Number**

87262143

**Status**

NOTICE OF ALLOWANCE - ISSUED

**Word Mark**

THE GREAT AMERICAN STORE

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

World Mart USA Inc. CORPORATION NEW JERSEY 1 Caraway Court Lumberton  
NEW JERSEY 08048

**Goods/Services**

Class Status -- ACTIVE. IC 024. US 042 050. G & S: Bed covers; Bed  
sheets; Bed skirts; Duvet covers; Duvets; Fitted bed sheets; Flat bed  
sheets; Pillow cases; Pillow covers; Pillow shams; Shams; Sheet sets.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "AMERICAN STORE" APART  
FROM THE MARK AS SHOWN.

**Filing Date**

2016/12/08

**Examining Attorney**

CHERY, JEFFREY

# The Great American Store



**To:** Sam Hedaya Corporation ([trademarks@ezrasutton.com](mailto:trademarks@ezrasutton.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87381068 - GREAT AMERICAN LINENS - Hedaya014B  
**Sent:** 8/8/2017 9:52:01 PM  
**Sent As:** ECOM107@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **8/8/2017** FOR U.S. APPLICATION SERIAL NO.87381068

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

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

Cancellation No. 92068862  
Reg. No. 5,351,922  
Mark: THE GREAT AMERICAN STORE

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SAM HEDAYA CORPORATION )  
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 *Petitioner,* )  
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 )  
 v. )  
 )  
 )  
 WORLD MART USA INC. )  
 )  
 )  
 *Registrant.* )

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**EXHIBIT B**

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Great  
American  
Linens<sup>®</sup>  
A Division of  
Sam Hedaya Linens, Inc.



Great  
American  
Linens<sup>®</sup>  
A Division of  
Sam Hedaya Linens, Inc.



Great  
American  
Linens<sup>®</sup>  
A Division of  
Sam Hedaya Linens, Inc.