

ESTTA Tracking number: **ESTTA914428**

Filing date: **08/08/2018**

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	USTOV, Inc.		
Entity	Corporation	Citizenship	California
Address	21118 Cabot Boulevard Hayward, CA 94545 UNITED STATES		

Attorney information	Anne Hiaring Hocking, Esq. Donahue Fitzgerald LLP 80 East Sir Francis Drake Boulevard Suite 3E Larkspur, CA 94939 UNITED STATES Email: ahocking@donahue.com, amackay@donahue.com, pcheruvu@donahue.com, trademarks@donahue.com Phone: 415-381-4161
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Registration Subject to Cancellation

Registration No.	4508956	Registration date	04/08/2014
International Registration No.	NONE	International Registration Date	NONE
Registrant	Shih-Ming CHEN 13F., No. 130-1, Wuquan W. 4th St. West Dist. Taichung City TAIWAN		

Goods/Services Subject to Cancellation

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Fruit juice, soft drinks, namely, sodas, beer, non-alcoholic beverages containing fruit juices, vegetable-fruit juices, mineral water, lemon juice for use in the preparation of beverages, sports drinks
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition for Cancellation - CFTEA RN 4508956.pdf(155880 bytes)
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Signature	/Anne Hiaring Hocking/
Name	Anne Hiaring Hocking

Date	08/08/2018
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Registration No. 4,508,956


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For the Trademark: CFTEA

Registered on: November 26, 2013

USTOV, Inc., Petitioner, v. Shih-Ming Chen, Registrant.	Cancellation No.:
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PETITION FOR CANCELLATION

Pursuant to 15 U.S.C. §§ 1064, 1068, 37 C.F.R. § 2.111, and TBMP § 309.03, USTOV, Inc., a California corporation located at 21118 Cabot Boulevard, Hayward, California, 94545 (“**Petitioner**”), believes that it is and will be damaged by Registration No. 4,508,956 for the mark  (“**Registrant’s Mark**”), currently owned by Shih-Ming Chen, an individual with an address of 13F., No. 130-1, Wuquan W. 4th St., West Dist., Taichung City, Taiwan (“**Registrant**”), and petitions to cancel said registration.

A. INTRODUCTION AND BACKGROUND OF PARTIES

As grounds of Cancellation, Petitioner alleges that:

1. Petitioner is the owner of U.S. Trademark Application Serial No. 87/658,362 filed on October 24, 2017 for the mark  (“**Petitioner’s Mark**”) in Class 30 for “Tea” (“**Petitioner’s Goods**”).

2. The Examining Attorney with the United States Patent and Trademark Office (“**USPTO**”) cited Registrant’s Mark against Petitioner’s Mark on the ground of a perceived likelihood of confusion.

3. Registrant applied to register Registrant's Mark on October 10, 2012 in Class 32 for "Fruit juice, soft drinks, namely, sodas, beer, non-alcoholic beverages containing fruit juices, vegetable-fruit juices, mineral water, lemon juice for use in the preparation of beverages, sports drinks" ("**Registrant's Goods**").

4. Registrant's Mark was registered on April 8, 2014, U.S. Registration No. 4,508,956 ("**Registrant's Registration**") based on Section 44(e) of the Trademark Act, 15 U.S.C. § 1126(e).

B. REGISTRANT ABANDONED REGISTRANT'S MARK

5. Petitioner repeats, realleges, and incorporates by reference, as though set forth in full, paragraphs 1 through 4 above.

6. As grounds for Cancellation, Petitioner alleges that Registrant has abandoned Registrant's Mark shown in Registrant's Registration pursuant to Section 14(3) of the Trademark Act, 15 U.S.C. § 1064(3).

7. Registrant's Mark was registered on April 8, 2014.

8. On information and belief, and according to public records of the USPTO, Registrant has yet to file a Statement of Use with the USPTO, or any evidence of use in commerce in connection with Registrant's Mark.

9. On information and belief, Registrant is not currently using Registrant's Mark in connection with Registrant's Goods in commerce.

10. On information and belief, Registrant has no intent to use, or resume use, if any, of Registrant's Mark in connection with Registrant's Goods in commerce.

11. On information and belief, for at least the last three consecutive years, Registrant has not used Registrant's Mark in connection with Registrant's Goods or related services in commerce, thereby constituting prima facie evidence of abandonment of Registrant's Mark.

12. On information and belief, and in view of Registrant's non-use and abandonment of Registrant's Mark, Registrant is not entitled to continued registration of Registrant's Mark

pursuant to Section 14(3) of the Trademark Act, 15 U.S.C. § 1064(3), and as such, Registrant's Registration should be cancelled.

C. REGISTRANT'S REGISTRATION SHOULD BE CANCELLED

13. As Petitioner's attempt to register Petitioner's Mark as shown in Petitioner's Application Serial No. 87/658,362 will be impaired by the continued registration of Registrant's Mark, Petitioner respectfully requests that Registrant's Registration, U.S. Registration No. 4,508,956, be cancelled.

FEE AND DEPOSIT REQUEST

The filing fee in the amount of \$400.00 is submitted with this Petition for Cancellation.

Date: August 8, 2018

Respectfully submitted,

DONAHUE FITZGERALD LLP

/Anne Hiaring Hocking/

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