

ESTTA Tracking number: **ESTTA1010778**

Filing date: **10/23/2019**

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	ASDAK International		
Entity	Corporation	Citizenship	California
Address	1809 1/2 North Orangethorpe Park Anaheim, CA 92705 UNITED STATES		

Attorney information	Craig J. Lervick Larkin Hoffman Daly & Lindgren Ltd. 8300 Norman Center Drive Suite 1000 Minneapolis, MN 55437-1060 UNITED STATES ipgroup@larkinhoffman.com, clervick@larkinhoffman.com, pgodfread@larkinhoffman.com 952-896-3245
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Registration Subject to Cancellation

Registration No.	5672245	Registration date	02/12/2019
Registrants	kevin ren 15110 ne 81st way unit 203 Redmond, WA 98052 UNITED STATES Email: renk701@gmail.com oggibox llc 15110 ne 81st way unit 203 Redmond, WA 98052 UNITED STATES Email: renk701@gmail.com		


Goods/Services Subject to Cancellation


Class 021. First Use: 2016/07/20 First Use In Commerce: 2016/07/20
All goods and services in the class are subject to cancellation, namely: Bakeware

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	88092280	Application Date	08/24/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OGGI		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 008. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Zesters; oyster openers; kitchen knives; spreader in the nature of a small knife for butter or cheese; can openers, non-electric; non-electric cheese slicers</p> <p>Class 009. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Measuring cups; measuring spoons; kitchen timers</p> <p>Class 021. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00 Cocktail shakers; cocktail stirrers; cocktail sticks; ice buckets; ice tongs; ice scoops; fruit muddlers; napkin holders; strainers for household purposes; bottle openers; cutting boards; portable beverage dispensers; liquor pourers; shot glasses; mugs; drinking glasses, namely, tumblers; martini glasses; champagne goblets; vacuum mugs; vacuum bottles; hipflasks; coolers for wine; champagne buckets; vacuum bottle stoppers specially adapted for use with wine bottles; corkscrews; coasters, not of paper or textile; serving trays; colanders; mixing bowls; bowls; non-electric cooking steamers; kitchen utensil crocks; kitchen utensils, namely, splatter screens; cooking strainers; jars for cooking grease sold empty; trivets; spoon rests; manually actuated pump dispensers for attachment to containers for use in dispensing liquids; toothpick holders, not of precious metal; oil and vinegar cruet for oil and vinegar, sold empty; hand-operated pepper mills; hand-operated salt and pepper mills; salt and pepper shakers; stovetop popcorn poppers, non-electric; fruit presses, non-electric, for household purposes; paper towel dispensers for household use; bread boxes; cheese board and knife set; hand-operated claw crackers; canister sets; cookie jars; cookware for use in microwave ovens; plastic storage containers for household use; trays for domestic purposes; carafes; coffee servers; coffeepots, non-electric; non-electric French presses; non-electric tea kettles; tea pots, non-electric; tea infusers not of precious metal; glass mugs; cream and sugar sets; hand operated coffee grinders; coffee mugs; sports bottles sold empty; pitchers; dispensers for liquid soap; dish drying racks; toilet brushes; toilet brush holders; toilet plunger holders; compost containers for household use; household storage containers for pet food</p>		
U.S. Application No.	88340829	Application Date	03/14/2019
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OGGI
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 008. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Zesters; oyster openers; kitchen knives; spreader in the nature of a small knife for butter or cheese; can openers, non-electric; non-electric cheese slicers</p> <p>Class 009. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Measuring cups; measuring spoons; kitchen timers</p> <p>Class 021. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00 Cocktail shakers; cocktail stirrers; cocktail sticks; ice buckets; ice tongs; ice scoops; fruit muddlers; napkin holders; strainers for household purposes; bottle openers; cutting boards; portable beverage dispensers; liquor pourers; shot glasses; mugs; drinking glasses, namely, tumblers; martini glasses; champagne goblets; vacuum mugs; vacuum bottles; hip flasks; coolers for wine; champagne buckets; vacuum bottle stoppers specially adapted for use with wine bottles; corkscrews; coasters, not of paper or textile; serving trays; colanders; mixing bowls; bowls; non-electric cooking steamers; kitchen utensil crocks; kitchen utensils, namely, splatter screens; cooking strainers; jars for cooking grease sold empty; trivets; spoon rests; manually actuated pump dispensers for attachment to containers for use in dispensing liquids; toothpick holders, not of precious metal; oil and vinegar cruet for oil and vinegar, sold empty; hand-operated pepper mills; hand-operated salt and pepper mills; salt and pepper shakers; stovetop popcorn poppers, non-electric; fruit presses, non-electric, for household purposes; paper towel dispensers for household use; bread boxes; cheese board and knife set; hand-operated claw crackers; canister sets; cookie jars; cookware for use in microwave ovens; plastic storage containers for household use; trays for domestic purposes; carafes; coffee servers; coffee pots, non-electric; non-electric French presses; non-electric tea kettles; tea pots, non-electric; tea infusers not of precious metal; glass mugs; cream and sugar sets; hand operated coffee grinders; coffee mugs; sports bottles sold empty; pitchers; dispensers for liquid soap; dish drying racks; toilet brushes; toilet brush holders; toilet plunger holders; compost containers for household use; household storage containers for pet food</p>

Attachments	<p>88092280#TMSN.png(bytes) 88340829#TMSN.png(bytes) Petition to Cancel OGGIBOX.pdf(123792 bytes)</p>
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Signature	/Craig J. Lervick/
Name	Craig J. Lervick
Date	10/23/2019

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

In the Matter of Trademark Registration No. 5,672,245
For the Mark: OGGIBOX OUR TOOLS YOUR INGREDIENTS
Date Registered: February 12, 2019

ASDAK International.

Petitioner,

vs.

Cancellation No. _____

Oggibox, LLC, Keven Ren


Respondents.

PETITION TO CANCEL

Petitioner, ASDAK International, believes that it is or will be damaged by the continued registration of the mark in U.S. Registration No. 5,672,245 and hereby petitions for cancellation of the same. The grounds for cancellation are as follows:

1. Petitioner is a California corporation having its principal place of business at 1809 ½ North Orangethorpe Park, Anaheim, California 92705.

2. Petitioner first adopted and used its OGGI trademark in the United States in 1993 and has continuously used this mark on a wide variety of products including barware, drinkware, and houseware products. These products have been sold throughout the United States since 1993 and continue to be sold today.

3. Petitioner first adopted and used its related  trademark in the United States as early as 2000 on a variety of barware, drinkware, and houseware products. These

products have been sold throughout the United States since at least as early as 2000 and continue to be sold today.

4. As outlined above, both of Petitioner's trademarks have remained in continuous use in interstate commerce since first being used in 1993 and 2000 respectively.

5. Petitioner's products bearing these trademarks are promoted and sold by multiple national retailers throughout the United States, such as Target, Bed Bath & Beyond, and Amazon.

6. Through the continuous sale of high quality products, the OGGI trademarks are well known by consumers and widely recognized in the barware, drinkware, and houseware markets.

7. Petitioner's trademarks became well known and widely recognized throughout the United States many years prior to Respondents claimed date of first use of July 20, 2016.

8. On August 24, 2018, Petitioner filed an application to register the mark "OGGI" on the Principal Register for use in connection with "Zesters; oyster openers; kitchen knives; spreader in the nature of a small knife for butter or cheese; can openers, non-electric; non-electric cheese slicers," in Class 8; "measuring cups; measuring spoons; kitchen timers" in Class 9; "cocktail shakers; cocktail stirrers; cocktail sticks; ice buckets; ice tongs; ice scoops; fruit muddlers; napkin holders; strainers for household purposes; bottle openers; cutting boards; portable beverage dispensers; liquor pourers; shot glasses; mugs; drinking glasses;, namely, tumblers; martini glasses; champagne goblets; vacuum mugs; vacuum bottles; hip flasks; coolers for wine; champagne buckets; vacuum bottle stoppers specially adapted for use with wine bottles; corkscrews; coasters, not of paper or textile; serving trays; colanders; mixing bowls; bowls; non-electric cooking steamers; kitchen utensil crocks; kitchen utensils, namely, splatter screens; cooking strainers; jars for cooking grease sold empty; trivets; spoon rests; manually actuated pump dispensers for attachment to containers for use in dispensing liquids; toothpick holders, not of precious metal; oil and vinegar cruet for oil and vinegar, sold empty; hand-operated pepper mills; hand-operated salt and pepper mills; salt and pepper shakers; stovetop popcorn poppers, non-electric; fruit presses, non-electric, for household purposes; paper towel dispensers for

household use; bread boxes; cheese board and knife set; hand-operated claw crackers; canister sets; cookie jars; cookware for use in microwave ovens; plastic storage containers for household use; trays for domestic purposes; carafes; coffee servers; coffeepots, non-electric; non-electric French presses; non-electric tea kettles; tea pots, non-electric; tea infusers not of precious metal; glass mugs; cream and sugar sets; hand operated coffee grinders; coffee mugs; sports bottles sold empty; pitchers; dispensers for liquid soap; dish drying racks; toilet brushes; toilet brush holders; toilet plunger holders; compost containers for household use; household storage containers for pet food,” in class 21; U.S. Application Serial No. 88/092,280 (the “OGGI Application”).

9. On March 14, 2019, Petitioner filed an application to register the trademark,



on the Principal Register for use in connection with the same goods as recited in paragraph 6 above, U.S. Application Serial No. 88/340,829 (the “OGGI Design Application”)

10. The United States Patent and Trademark Office has refused registration of Petitioner’s



“OGGI” mark in the OGGI Application and the mark in the OGGI Design Application because it believes these marks so resembles the mark shown in U.S. Registration No. 5,672,245 as to be likely, when used on the recited goods, to cause confusion, or cause mistake, or to deceive.

11. Petitioner has responded to the Office Actions issued for both the OGGI Application and the OGGI Design Application and the Office has maintained and made final its refusals to register Petitioner’s trademarks due to the alleged likelihood of confusion with Respondents’ trademark.

12. Petitioner has tried, without success, to resolve the issue of likelihood of confusion raised by the Examining Attorneys assigned to each of Petitioner’s applications by means of a consent or coexistence agreement with Respondents. To date, Respondents have refused to enter into such an agreement.

13. Upon information and belief, Respondent Oggibox, LLC is a Washington limited liability company with an address of 15110 NE 81st Way, Unite 203, Redmond, Washington 98052.

14. Upon information and belief, Respondent Kevin Ren is an individual also with an address of 15110 NE 81st Way, Unite 203, Redmond, Washington 98052.

15. Upon information and belief, Respondents are co-owners of the OGGIBOX OUR TOOLS YOUR INGREDIENTS trademark and U.S. Registration No. 5,672,245, registered on February 12, 2019 and directed exclusively to “bakeware.”

16. Upon information and belief, Respondents adopted the mark in U.S. Registration No. 5,672,245 no earlier than July 20, 2016; many years after Petitioner had begun using its OGGI trademarks throughout the United States.

17. Petitioner’s rights in the OGGI trademark and related design trademark predate any rights Respondent may have in its trademark and therefore Petitioner has priority.

18. Petitioner is being damaged by continued existence of U.S. Registration No. 5,672,245 because Petitioner is unable to obtain registration of the trademarks in the OGGI Application and the OGGI Design Application due to the refusals based on alleged likelihood of confusion with Respondents’ registration.

19. Petitioner’s legal use of its trademarks will be impaired by the continued registration of the mark in U.S. Registration No. 5,672,245.

WHEREFORE, Petitioner prays that this Petition be granted and that U.S. Registration No. 5,672,245 be cancelled.

Please address all communication to Craig J. Lervick, Larkin Hoffman Daly & Lindgren Ltd., 8300 Norman Center Drive, Suite 1000, Minneapolis, Minnesota 55437-1060.

Date: October 23, 2019

ASDAK International

By its Attorneys:

/Craig J. Lervick/

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