

ESTTA Tracking number: **ESTTA1031574**

Filing date: **01/27/2020**

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

Proceeding	92072851
Party	Defendant Unsalted No Sharks LLC
Correspondence Address	UNSALTED NO SHARKS LLC 213 EAST 6TH STREET MICHIGAN CITY, IN 46360 UNITED STATES no email provided no phone number provided
Submission	Answer
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Date	01/27/2020
Attachments	UNSALTED NO SHARKS Answer 0127-20.pdf(137837 bytes )

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

In re Cancellation of Registration No. 5732765

Mark: UNSALTED NO SHARKS

Owner: Unsalted No Sharks, LLC

Michigan Rag Co., Inc.	)
	)
Petitioner,	)
	) Cancellation No.: 92072851
v.	)
	)
Unsalted No Sharks, LLC,	)
	)
Registrant.	)

**REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION**

Registrant, Unsalted No Sharks, LLC (hereinafter “Registrant”), by and through their attorney, Colin T.J. O’Brien, hereby responds to the Petition for Cancellation, and iterates their Affirmative Defenses as follows:

**Answer**

1. Registrant is without knowledge or information sufficient to form a belief as to Paragraph 1 of the Petition for Cancellation and therefore denies all allegations contained therein.

2. Registrant is without knowledge or information sufficient to form a belief as to Paragraph 2 of the Petition for Cancellation and therefore denies all allegations contained therein.

3. Registrant is without knowledge or information sufficient to form a belief as to Paragraph 3 of the Petition for Cancellation and therefore denies all allegations contained therein.

4. Registrant admits to the allegations contained in Paragraph 4 to the extent that the Paragraph refers to the attached Exhibit A. Registrant denies the allegations in so far as they imply or speak to the validity or quality of Petitioner's claimed "Unsalted" and "Lake Michigan Unsalted" trade names. Registrant denies all allegations regarding use of the claimed "Unsalted" and "Lake Michigan Unsalted." Registrant is without knowledge or information sufficient to form a belief as to the sales history of Petitioner's products, and therefore denies all allegations contained therein.

5. Registrant admits to the allegations contained in Paragraph 5 to the extent that the Paragraph refers to the attached Exhibit B. Registrant denies the allegations in so far as they imply or speak to the validity or quality of the claimed "Unsalted" and "Lake Michigan Unsalted" trade names.

6. Registrant admits to the allegations contained in Paragraph 6 to the extent that the Paragraph refers to the attached Exhibit C. Registrant denies the allegations in so far as they imply or speak to the validity or quality of the claimed "Unsalted" and "Lake Michigan Unsalted" trade names. Registrant denies all allegations regarding use of the claimed "Unsalted" and "Lake Michigan Unsalted." Registrant is without knowledge or information sufficient to form a belief as to the store ornamentation for Petitioner's products, and therefore denies all allegations related therein.

7. Registrant admits to the allegations contained in Paragraph 7 to the extent that the Paragraph refers to the attached Exhibit D. Registrant denies the allegations in so far as they imply or speak to the validity or quality of the claimed "Unsalted" and "Lake Michigan Unsalted" trade names. Registrant denies all allegations which refer to or imply fame,

recognition, or public association of “Unsalted” and “Lake Michigan Unsalted” with Petitioner.

8. Registrant is without knowledge or information sufficient to form a belief as to the marketing, development, and business strategy of Petitioner’s products, and therefore denies all allegations contained therein. Registrant denies the allegations in so far as they imply or speak to the validity or quality of the claimed “Unsalted” and “Lake Michigan Unsalted” trade names. Registrant denies all allegations regarding use of the claimed marks.

9. Registrant is without knowledge or information sufficient to form a belief as to Paragraph 9 of the Petition for Cancellation and therefore denies all allegations contained therein.

10. Registrant is without knowledge or information sufficient to form a belief as to Paragraph 10 of the Petition for Cancellation and therefore denies all allegations contained therein.

11. Registrant denies the allegations of Paragraph 11. Registrant further denies that Petitioner has any established, valid, or subsisting statutory or common law trademark rights in the terms “Unsalted” and “Lake Michigan Unsalted.”

12. Registrant denies all allegations contained in Paragraph 12 regarding any expressed, implied, or supposed statutory or common law trademark rights in “Unsalted” and “Lake Life Unsalted.”

13. Registrant denies all allegations in Paragraph 13.

14. Registrant denies all allegations in Paragraph 14.

15. Registrant denies all allegations in Paragraph 15. Petitioner does not have any established, valid, or subsisting statutory or common law rights in the claimed trade names, “Unsalted” or “Lake Michigan Unsalted.”

16. Registrant admits to the allegations contained in Paragraph 16.

17. Registrant admits to the allegations contained in Paragraph 17. Registrant further adds that the Examining Attorney has also denied Petitioner’s Application for “LAKE MICHIGAN UNSALTED” (App. No. 88529820) on the grounds that there is a likelihood of confusion with Registration Nos. 4995102; 5119212; 5691044; and 5732765, potential likelihood of confusion with pending U.S. Application Serial Nos. 87403460 and 87745278, the applied-for mark is merely ornamental, the specimen is illegible, the identification of goods needs to be reidentified, the mark requires a multiple class designation, and the Petitioner needs disclaim “Lake Michigan” as merely descriptive matter.

18. Registrant denies all allegations contained in Paragraph 18.

19. Registrant denies all allegations in Paragraph 19. Petitioner cannot be damaged because they have no established, valid, or subsisting statutory or common law right to the claimed trade names.

20. Registrant admits to the allegations contained in Paragraph 20.

21. Registrant admits to the allegations contained in Paragraph 21.

22. Registrant admits to the allegations contained in Paragraph 22. Registrant clarifies Petitioner’s wording, “printed on the inside collar of the shirt,” is the equivalent of a tag placement which is among the most common brand placement and source identifiers in the clothing business. The print or tag placement shows the source origination of the garment. Registrant maintains that its mark is routinely placed in the tag area of its products.

23. Registrant denies all allegations in Paragraph 23. UNSALTED NO SHARKS is Registrant's brand and company. The mark routinely appears in apparel sold by Registrant, in the back-collar tag placement position, as a clear indication of source. This occurs whether the products are sold directly from Registrant to the consumer, through an authorized retailer, or on the second-hand market.

24. Registrant denies all allegations in Paragraph 24.

25. Registrant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 25, and therefore denies all allegations contained therein.

26. Registrant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 26, and therefore denies all allegations contained therein.

27. Registrant denies all allegations in Paragraph 27. Petitioner has conspicuously failed to produce and use basic research, relying instead on unsubstantiated allegations of fraud. Such serious shortcomings only highlight the hypothetical nature of Petitioner's claims.

28. Registrant denies that it visited Petitioner's facilities and observed goods of Petitioner bearing Petitioner's Marks at Petitioner's facilities. Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 28, and therefore denies all allegations contained therein.

29. Registrant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 29, and therefore denies all allegations contained therein.

30. Registrant denies all allegations in Paragraph 30.

31. Registrant denies all allegations in Paragraph 31.

32. Registrant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 32, in so far as they relate to claimed usage of Petitioner's claimed

“Unsalted” and “Lake Michigan Unsalted” tradenames, and therefore denies all allegations related therein. Registrant denies the allegations in so far as they imply or speak to the validity or quality of the claimed “Unsalted” and “Lake Michigan Unsalted” tradenames.

33. Registrant denies all allegations in Paragraph 33.

34. Registrant admits to the allegations contained in Paragraph 34, in so far as they refer to the relatedness of wording for goods and/or services under the marks. Registrant denies all allegations referring to consumer confusion.

35. Registrant denies all allegations in Paragraph 35.

36. Registrant denies all allegations in Paragraph 36.

37. Registrant denies all allegations in Paragraph 37.

38. Registrant is without knowledge or information sufficient to form a belief as to the marketing, development, and business strategy of Petitioner’s products, and therefore denies all allegations contained therein. Registrant denies all allegations which refer to or imply fame, recognition, or public association of “Unsalted” and “Lake Michigan Unsalted” with Petitioner.

39. Registrant denies all allegations in Paragraph 39.

40. Registrant denies all allegations in Paragraph 40.

41. Registrant denies all allegations in Paragraph 41.

42. Registrant denies all allegations in Paragraph 42.

**Affirmative Defenses**

43. Petitioner has not and will not be damaged by the continued registration of the trademark UNSALTED NO SHARKS and therefore lacks standing to petition to cancel the registration.

44. The only relation to Petitioner's invalid claimed "Unsalted" and "Lake Michigan Unsalted" and UNSALTED NO SHARKS is the generic term "unsalted."

45. Petitioner has no rights to the generic term "unsalted."

46. Petitioner failed to accurately identify and use its claimed interests in a manner that could have allowed them to mature into valid rights in the descriptive terms "Lake Michigan Unsalted" and "Unsalted" prior to their adoption by the general public.

47. Petitioner's bare allegations of fraud and nonuse based on deficient research and unfounded accusations are the only bases Petitioner cites to for the cancellation.

48. Petitioner has not shown, in this cancellation, or in their pending application, that they own any valid and subsisting trademark rights such that they cannot be harmed by Registrant's marks.

49. Petitioner is barred from seeking cancellation of the Registrant's trademarks under the doctrines of laches, estoppel, waiver, and unclean hands.

50. Petitioner has acquiesced in Registrant's adoption, registration and use of the marks that are the subject of this Petition for Cancellation.

51. Petitioner's use of Lake Michigan Unsalted and Unsalted are only ornamental and descriptive.

**WHEREFORE**, Registrant prays that the Cancellation be dismissed with prejudice.

Dated: January 27, 2020

Respectfully Submitted,

LATIMER LEVAY FYOCK LLC

/s/Colin O'Brien  
Colin T.J. O'Brien  
LATIMER LEVAY FYOCK LLC  
55 West Monroe, Suite 1100  
Chicago, Illinois 60603



*Attorneys for UNSALTED NO SHARKS, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of Registrant's Answer to Notice of Cancellation has been served on Terence J. Linn by forwarding said copy on January 24, 2020, via email to [linn@gardner-linn.com](mailto:linn@gardner-linn.com).

s/Colin O'Brien

Colin O'Brien