

ESTTA Tracking number: **ESTTA1029210**

Filing date: **01/15/2020**

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	GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED		
Entity	China Limited Company	Citizenship	China
Address	BAIYUN DISTRICT JIANGCUN GUANGZHOU GUANGDONG, 510000 CHINA		

Attorney information	John T.D. Bathke IpHorgan Ltd. 195 Arlington Heights Rd., Ste. 125 Buffalo Grove, IL 60089 UNITED STATES mail@iphorgan.com, jrbathke@iphorgan.com, clay@iphorgan.com 8478085500
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Registrations Subject to Cancellation

Registration No.	2228470	Registration date	03/02/1999
Registrant	Kwok Shing Import-Export, Inc. 1150 THOMAS AVENUE San Francisco, CA 94124 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1995/12/00 First Use In Commerce: 1995/12/00 All goods and services in the class are subject to cancellation, namely: Dietary food supplements

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)		
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used	Trademark Act Section 14(3)		
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)		
Registration No.	5209643	Registration date	05/23/2017
Registrant	Kwok Shing Import-Export, Inc. 1150 Thomas Avenue San Francisco, CA 94124		

	UNITED STATES Email: ralpert@morganlewis.com
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Goods/Services Subject to Cancellation

Class 029. First Use: 2017/01/00 First Use In Commerce: 2017/01/00 All goods and services in the class are subject to cancellation, namely: herbal jellies for food purposes

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2153322	Application Date	03/25/1996
Registration Date	04/28/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 processed tea leaves packaged in bags		

Attachments	75078159#TMSN.png(bytes)
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	BJT 0046 US Cancellation Petition against Reg No 2228470.pdf(457762 bytes) BJT 0045 US Cancellation Petition Against Reg No 5209643.pdf(611102 bytes)
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Signature	/John T.D. Bathke/
Name	John T.D. Bathke
Date	01/15/2020

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

Reg. No. : 2228470
Filed : Feb. 13, 1998
Reg. Date : Mar. 02, 1999





Mark :
Respondent : Kwok Shing Import-Export, Inc.

Guangzhou Wanglaoji)
Pharmaceutical Company Limited,)
)
Petitioner,) Cancellation No. _____
)
v.)
)
Kwok Shing Import-Export, Inc.,)
Respondent.)

PETITION FOR CANCELLATION

Guangzhou Wanglaoji Pharmaceutical Company Limited (“Guangzhou Wanglaoji” or “Petitioner”), believes it will be damaged by continued registration of the

design mark , U.S. Trademark Registration No. 2228470, by Kwok Shing Import-Export, Inc. (“Kwok Shing” or “Respondent”). For this reason, Guangzhou Wanglaoji, by its attorneys IpHorgan Ltd, hereby petitions for cancellation of Kwok

Shing’s  registration. In support of this Petition for Cancellation, Petitioner states as follows:

Petitioner

1) Guangzhou Wanglaoji is a China limited company having its principal place of business at Baiyun District, Guangzhou, Guangdong, China 510000.

2) Guangzhou Wanglaoji owns United States Trademark Registration No.



2153322 for its mark (“Petitioner’s ’322 Registration” and “Petitioner’s ’322 Mark”).

3) On March 25, 1996, a predecessor in interest to Petitioner filed U.S. Trademark Application No. 75078159, the application underlying Petitioner’s ’322 Registration. The application was filed under Sections 1(b) and 44(e).

4) Petitioner’s ’322 Mark was registered on April 28, 1998 under Section 44(e). Petitioner’s ’322 Registration identifies the following goods in international class 30: “processed tea leaves packaged in bags”.

5) Attached hereto as Exhibit A is a true and correct copy of the certificate of registration, along with print outs from the United States Patent and Trademark Office online database showing the current trademark status and assignment history of Petitioner’s ’322 Registration. As can be seen, Petitioner’s ’322 Registration is valid, subsisting, and in full force and effect.

6) Petitioner has filed Declarations of Use and Incontestability under Sections 8 and 15 of the Lanham Act for Petitioner’s ’322 Registration. The Section 8 Declarations were accepted and the Section 15 Declaration acknowledged. Accordingly, this registration is incontestable under Section 15 of the Lanham Act.

7) For many years, Petitioner and its affiliated companies have expended considerable time, money, and effort advertising and promoting Petitioner's '322 Mark in the United States. As a result, Petitioner has developed an excellent reputation for the goods it offers under Petitioner's '322 Mark and has acquired tremendous goodwill in the mark.

8) As a result of these efforts and Petitioner's substantial and continuous use



in commerce of its mark, Petitioner's '322 Mark is distinctive, well known to the consuming public, and has acquired secondary meaning designating Petitioner as the source of the excellent goods Petitioner and its affiliated companies provide in connection with Petitioner's '322 Mark.



9) The mark does not describe or suggest anything about Petitioner's goods. Accordingly, Petitioner's '322 Mark is inherently distinctive.

10) Because ordinary consumers recognize Petitioner's '322 Mark as designating the source of the goods Petitioner provides under Petitioner's '322 Mark, and Petitioner's '322 Mark is inherently distinctive and has acquired additional distinctiveness through substantial use in U.S. commerce, Petitioner and its affiliated companies have acquired substantial common law rights in Petitioner's '322 Mark.

11) On July 13, 2015, Petitioner's parent company, Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd., of which Petitioner is a subsidiary, filed U.S. Trademark Application Serial No. 86691579 ("Guangzhou Baiyunshan's '579



Application”) for the mark in connection with the following goods:

“Baby food; Candy for medical purposes; Cough lozenges; Cough syrups; First aid kits; Herb teas for medicinal purposes; Herbal honey throat lozenges; Medicinal herbs; Medicinal herbs in dried or preserved form; Medicinal radix glycyrrhizae” in international class 5 on a Section 1(b) basis;

“Candy; Garden herbs, preserved; Grain-based beverages; Grass-based food beverages; Herbal honey; Hop extracts used as flavoring for foods and beverages” in international class 30 on a Section 1(a) basis, first use in 1988 and first use in commerce on April 4, 2013; and

“Bottled water; Cola; Cola drinks; Concentrated fruit juice; Corn-based beverages not for food purposes (chicha morada); Drinking water; Drinking water with vitamins; Energy drinks; Fruit concentrates and purees used as ingredients of beverages; Fruit drinks; Fruit juice; Herbal juices; Mineral and aerated water; Non-alcoholic peanut milk beverages not being a milk substitute; Non-carbonated, non-alcoholic frozen flavored beverages” in international class 32 on a Section 1(a) basis, first use in 1988 and first use in commerce on April 4, 2013.

12) The Examining Attorney refused registration of Guangzhou Baiyunshan’s ’579 Application. One of the grounds for refusal included likelihood of confusion under Section 2(d). In the office action issued on July 20, 2018, Kwok Shing’s ’470 Registration was one of the registrations cited against Guangzhou Baiyunshan’s ’579 Application.

13) The Examining Attorney’s 2(d) refusal was made final on February 19, 2019.

14) Guangzhou Baiyunshan filed on August 15, 2019, a request to divide its ’579 Application. On August 19, 2019, Guangzhou Baiyunshan subsequently filed a

request for reconsideration relating to the parent application, Guangzhou Baiyunshan's '579 Application, which now identifies the following goods:

“Herb teas for medicinal purposes; Herbal honey throat lozenges; Medicinal herbs; Medicinal herbs in dried or preserved form; Medicinal radix glycyrrhizae” in international class 5 on a Section 1(b) basis;


“Garden herbs, preserved; Herbal honey” in international class 30 on a Section 1(b) basis; and

“Drinking water with vitamins; Energy drinks; Herbal juices” in international class 32 on a Section 1(b) basis.

15) On September 11, 2019, the Examining Attorney denied Guangzhou Baiyunshan's request for reconsideration, maintaining the likelihood of confusion refusal and continuing to cite Kwok Shing's '470 Registration.

Respondent

16) Respondent Kwok Shing is a California corporation with its principal place of business at 1150 Thomas Avenue, San Francisco, California 94124.

17) According to USPTO records, Kwok Shing filed U.S. Trademark Application No. 75433981 for the mark  for “dietary food supplements” in class 05.

18) This application was filed on February 13, 1998 under Section 1(a) of the Lanham Act and registered on March 2, 1999, U.S. Trademark Registration 2228470 (“Kwok Shing's '470 Registration”).

19) The specimen filed by Kwok Shing to support the use based application



showed Petitioner's mark. The specimen submitted consisted of the



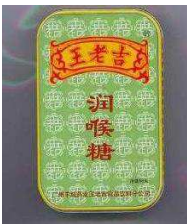
following image:

20) On August 19, 2004, Kwok Shing filed Section 8 and 15 Declarations

along with a specimen of use; that specimen again displayed Petitioner's



mark. The specimen submitted consisted of the following image:



21) On December 16, 2008, Kwok Shing filed another Section 8 Declaration

along with a specimen of use; for a third time, that specimen displayed Petitioner's




mark. The specimen submitted consisted of the following





image:

22) On November 6, 2013, Kwok Shing applied for a second U.S. trademark

registration for its  mark, this time for “herbal jelly”, U.S. Trademark Application Serial No. 86112378.

23) U.S. Trademark Application Serial No. 86112378 was initially refused registration under Section 2(d) of the Lanham Act based on Petitioner’s ’322 Mark.


24) To overcome that refusal, Kwok Shing represented to the USPTO that

Petitioner’s  mark was different from its  mark.


25) In its signed office action response, Kwok Shing specifically stated that the “design aspects of each of the design marks at issue readily distinguish them: Where applicant’s mark consists of the non-Latin characters in a stylized test [sic], the cited mark contains an elaborately flourished border resembling an unraveled scroll.”


26) As a result of Kwok Shing’s response, U.S. Trademark Application Serial No. 86112378 was allowed to proceed to publication. After the notice of allowance issued, Kwok Shing filed a statement of use and once again submitted a specimen with


Petitioner's '322 Mark. Kwok Shing's mark then was registered, U.S. Trademark Registration 5209643 ("Kwok Shing's '643 Registration").

27) On July 24, 2018, Kwok Shing filed a Section 8 Declaration for its '470 Registration. The specimen submitted showed use of  on a package of goji berries.

28) Goji berries are goods specifically identified in the USPTO Trademark ID Manual as goods in either class 29 or 31 depending on whether they are processed; these goods would not be considered "dietary food supplements" in class 05.

29) In Kwok Shing's 2018 Product Catalog, Kwok Shing does not appear to sell dietary food supplements under the  mark.

30) On Kwok Shing's website, <http://www.kshsf.cn>, Kwok Shing does not appear to sell dietary food supplements under the  mark.

31) Instead, in its brochure and on its website, Kwok Shing sells Petitioner's  products.

32) Petitioner believes it will be damaged by the continued registration of Kwok Shing's '470 Mark.

Grounds for Opposition

1. Abandonment Through Nonuse

33) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 32 of this Petition.


34) On information and belief, Kwok Shing has never used its own



mark to market or sell the goods identified in its '470 Registration, i.e. “dietary food supplements.”

35) On information and belief, Kwok Shing never intended to use



in connection with “dietary food supplements” and still does not intend to use  in connection with these products.

36) On information and belief, within the last three years, Kwok Shing has not



used its mark in connection with the sale of “dietary food supplements”.

37) Accordingly, Kwok Shing’s '470 Registration should be cancelled on the ground that Respondent abandoned its mark under 15 U.S.C. Section 1127.

2. Misrepresentation of Source

38) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 37 of this Petition.

39) In its brochure and on its website, Kwok Shing sells goods under Petitioner '322 Mark.

40) To acquire and maintain its '470 Registration, Kwok Shing used specimens featuring Petitioner '322 Mark.

41) Specifically, in connection with Kwok Shing’s '470 Registration, Kwok Shing three times submitted specimens of use featuring the Petitioner '322 Mark. It



submitted _____ as its original specimen;



in 2004, it submitted _____; and in 2008 it submitted _____.



42) None of Kwok Shing’s specimens above demonstrates use of Kwok Shing’s ’643 Mark. Rather, they each feature Petitioner’s ’322 Mark.

43) In using Petitioner’s ’322 Mark in connection with goods that Kwok Shing offers in commerce, Kwok Shing has co-opted Petitioner’s goodwill and is intentionally encouraging its customers to believe Petitioner, rather than Kwok Shing, is the source of the goods offered by Kwok Shing.

44) In sum, Kwok Shing has blatantly copied Petitioner’s ’322 Mark and is conflating Kwok Shing’s ’643 Mark and Petitioner’s ’322 Mark to pass off its goods as those of Petitioner.

45) Accordingly, Kwok Shing’s ’643 Registration should be cancelled under Section 14(3) of the Lanham Act, 15 U.S.C. Section 1064(3), on the ground of misrepresentation of source.

3. Fraud in the Procurement and Maintenance of Registration

46) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 45 of this Petition.

47) Respondent Kwok Shing knowingly made specific false, material representations of fact in connection with the specimens it submitted to procure and maintain Kwok Shing's '470 Registration, with the intent to deceive the USPTO.

48) Specifically, Kwok Shing filed its trademark application with a specimen of use that showed Petitioner's '322 Mark on Petitioner's goods and not Kwok Shing's mark and goods.

49) Under 37 C.F.R. Section 2.56, a specimen of use submitted in connection with an application under Section 1(a) of the Lanham Act must show "the mark as used on or in connection with the goods or services."

50) As a result, but for a proper specimen of use, an application filed as here under Section 1(a) cannot mature to registration.

51) But for Kwok Shing's false representation that the specimens it provided showed its applied-for mark as used in connection with the goods in commerce, the application would not have matured to registration.

52) After securing its registration, Kwok filed two Section 8 Declarations and a Section 15 Declaration, all with specimens of use that again showed Petitioner's '322 Mark on Petitioner's goods and not Kwok Shing's mark and goods.

53) These Declarations were signed by Kwok Shing's Attorney under 18 U.S.C. Section 1001.

54) Under 37 C.F.R. Section 2.161, a Section 8 Declaration must include a specimen "...showing how the mark is in use in commerce for each class in the registration."

55) As a result, but for a proper specimen of use, a registration will be cancelled.

56) But for Kwok Shing's false representation that the specimens it provided showed its mark as used in connection with the goods in commerce, the registration would have been cancelled.

57) As a result, Kwok Shing's false representations were a materially false statement.

58) Kwok Shing's submission of specimens featuring Petitioner's '322 Mark rather than its own was intentionally designed to deceive the USPTO, which can be strongly inferred in the following ways:

59) Kwok Shing submitted on three separate occasions specimens of use in the procurement and maintenance of Kwok Shing's '470 Registration that purported to show its mark in use but in fact showed only Petitioner's '322 Mark.

60) Kwok Shing considers its  to be different than Petitioner's



mark.

61) As evidenced in Kwok Shing's office action response filed to overcome the refusal of Kwok Shing's '643 Mark, Kwok Shing considers Petitioner '322 Mark to be a different mark from Kwok Shing's mark.

62) The only reasonable conclusion is that Kwok Shing falsely represented a material fact with the intention of deceiving the USPTO, and but for which registration of Kwok Shing's '470 Mark would not have been allowed.

63) Accordingly, Kwok Shing's '470 Registration should be cancelled on the ground that Respondent committed fraud in the procurement and maintenance of its registration.

Conclusion

64) For the foregoing reasons, Kwok Shing's '470 Registration should be cancelled in its entirety on the grounds of abandonment, misrepresentation of source, and fraud.

WHEREFORE, Petitioner respectfully requests that this Petition for Cancellation be granted and that U.S. Trademark Registration No. 2228470 be cancelled.

Date: January 15, 2020

Respectfully submitted,

/John T.D. Bathke/

John T.D. Bathke

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Attorneys for Petitioner,

Guangzhou Wanglaoji Pharmaceutical Holding Co., Ltd.

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,153,322

Registered Apr. 28, 1998

**TRADEMARK
PRINCIPAL REGISTER**



WANG LAO JI FOOD & BEVERAGESUBSI-
DIARY, YANGCHENG PHARMACEUTICAL
STOCK CORP. LTD OF GUANGZHOU
(CHINA CORPORATION)
BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

THE CHINESE CHARACTERS IN THE
MARK transliterate to "WANG LAO JI",
WHICH MEAN "WANG", "OLD", AND
"LUCKY" RESPECTIVELY IN ENGLISH, BUT
WHEN THEY ARE USED TOGETHER, THEY
HAVE NO MEANING.

FOR: PROCESSED TEA LEAVES PACK-
AGED IN BAGS, IN CLASS 30 (U.S. CL. 46).
OWNER OF CHINA REG. NO. 328241,
DATED 10-30-1988, EXPIRES 10-30-1998.

SER. NO. 75-078,159, FILED 3-25-1996.

CAROLYN GRAY, EXAMINING ATTORNEY

Generated on: This page was generated by TSDR on 2020-01-13 12:07:25 EST

Mark:



US Serial Number: 75078159

Application Filing Date: Mar. 25, 1996

US Registration Number: 2153322

Registration Date: Apr. 28, 1998

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Apr. 17, 2018

Publication Date: Sep. 16, 1997

Mark Information

Mark Literal Elements: None

Standard Character Claim: No

Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)

Translation: The Chinese characters in the mark transliterate to "wang lao ji", which mean "wang", "old", and "lucky" respectively in English, but when they are used together, they have no meaning.

Design Search Code(s): 26.13.28 - Quadrilateral shapes (miscellaneous overall shape); Miscellaneous designs with overall quadrilateral shape
28.01.03 - Chinese characters; Japanese characters; Japanese and Chinese characters

Foreign Information

Foreign Registration Number: 328241

Foreign Registration Date: Oct. 30, 1988

Application/Registration Country: Foreign CHINA

Foreign Expiration Date: Oct. 30, 1998

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: processed tea leaves packaged in bags

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: Yes

Filed 44E: Yes

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED

Owner Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG CHINA 510000

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Charles Ho

Docket Number: JILY-1816-US

Attorney Primary charles_ho@barron-young.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent Charles Ho
Name/Address: Barron & Young Intellectual Property Ltd.
P.O. Box 1484, General Post Office
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Hong Kong HONG KONG

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Correspondent e-mail: charles_ho@barron-young.com bytrademark@bar-ron-young.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Kevin Zhang
Representative
Name:

Domestic kevin.zhang2002@gmail.com
Representative e-mail:

Domestic Yes
Representative e-mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Apr. 17, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Apr. 17, 2018	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	76874
Apr. 17, 2018	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	76874
Apr. 17, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Apr. 06, 2018	TEAS SECTION 8 & 9 RECEIVED	
Mar. 14, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 07, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Feb. 26, 2018	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Feb. 26, 2018	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Apr. 28, 2017	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Jun. 25, 2014	TTAB RELEASE CASE TO TRADEMARKS	54959
Jun. 25, 2014	CANCELLATION TERMINATED NO. 999999	54959
Dec. 21, 2011	CANCELLATION INSTITUTED NO. 999999	54959
Aug. 26, 2010	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Aug. 26, 2010	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 31, 2007	UNDELIVERABLE MAIL - NO ACTION TAKEN	99888
Dec. 08, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76533
Dec. 08, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	

Sep. 20, 2007	RESPONSE RECEIVED TO POST REG. ACTION - SEC. 8 & 9	
Sep. 20, 2007	FAX RECEIVED	
Aug. 20, 2007	CASE FILE IN TICRS	
Jul. 09, 2007	FAX RECEIVED	
Jul. 09, 2007	FAX RECEIVED	
Jul. 09, 2007	FAX RECEIVED	
Jun. 28, 2007	FAX RECEIVED	
Jun. 09, 2007	POST REGISTRATION ACTION MAILED - SEC. 8 & 9	76533
Jun. 09, 2007	ASSIGNED TO PARALEGAL	76533
Jun. 09, 2007	REGISTERED - SEC. 15 ACKNOWLEDGED	68502
Jun. 08, 2007	ASSIGNED TO PARALEGAL	68502
May 15, 2007	REGISTERED - SEC. 15 AFFIDAVIT FILED	
May 08, 2007	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
May 15, 2007	TEAS SECTION 15 RECEIVED	
May 08, 2007	TEAS SECTION 8 & 9 RECEIVED	
Apr. 28, 2004	REGISTERED - SEC. 8 (6-YR) ACCEPTED	
Mar. 10, 2004	REGISTERED - SEC. 8 (6-YR) FILED	
Mar. 14, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 10, 2004	TEAS SECTION 8 RECEIVED	
Apr. 28, 1998	REGISTERED-PRINCIPAL REGISTER	
Mar. 16, 1998	Sec. 1(B) CLAIM DELETED	70373
Mar. 16, 1998	NOTICE OF ALLOWANCE CANCELLED	
Dec. 09, 1997	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 16, 1997	PUBLISHED FOR OPPOSITION	
Aug. 15, 1997	NOTICE OF PUBLICATION	
Jun. 06, 1997	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 19, 1997	EXAMINER'S AMENDMENT MAILED	
Apr. 17, 1997	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Oct. 17, 1996	NON-FINAL ACTION MAILED	
Sep. 30, 1996	ASSIGNED TO EXAMINER	67523

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Apr. 17, 2018

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: WANG LAO JI Food & Beveragesubsiary,
Yangcheng Pharmaceutical Stock Corp. LTD of
Guangzhou

Assignment 1 of 2

Conveyance: CHANGE OF NAME

Reel/Frame: [6281/0583](#)

Pages: 4

Date Recorded: Mar. 01, 2018

Supporting Documents: [assignment-tm-6281-0583.pdf](#)

Assignor

Name: [WANG LAO JI FOOD & BEVERAGESUBSIDIARY, YANGCHENG PHARMACEUTICAL STOCK CORP. LTD OF GUANGZHOU](#)

Execution Date: Feb. 17, 2004

Legal Entity Type: CORPORATION

State or Country Where Organized: CHINA

Assignee

Name: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent

Correspondent Name: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

Correspondent Address: P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [6284/0187](#)

Pages: 2

Date Recorded: Mar. 05, 2018

Supporting Documents: [assignment-tm-6284-0187.pdf](#)

Assignor

Name: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Execution Date: Mar. 01, 2017

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Assignee

Name: [GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent

Correspondent Name: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

Correspondent Address: P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 5

Type of Proceeding: Opposition

Proceeding Number: [91234831](#)

Filing Date: May 31, 2017

Status: Pending

Status Date: May 31, 2017

Interlocutory Attorney: SHANNA K SANDERS

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
MCCARTER & ENGLISH LLP
TWO TOWER CENTER BLVD
EAST BRUNSWICK NJ UNITED STATES , 08816

Correspondent e-mail: sgoldsmith@mccarter.com , bostontrademarks@mccarter.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87101038	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
IPHORGAN LTD
195 ARLINGTON HEIGHTS RD STE 125
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 06, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91234843](#) **Filing Date:** May 31, 2017

Status: Pending **Status Date:** May 31, 2017

Interlocutory Attorney: WINSTON T FOLMAR

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
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TWO TOWER CENTER BOULEVARD
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100809	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	

2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 06, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91234845](#) **Filing Date:** May 31, 2017

Status: Pending **Status Date:** May 31, 2017

Interlocutory Attorney: LAWRENCE (LARRY) T STANLEY

Defendant

Name: Multi Access Limited

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Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100961	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 08, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91233411](#) **Filing Date:** Mar 14, 2017

Status: Pending **Status Date:** Jan 11, 2019

Interlocutory Attorney: SHANNA K SANDERS

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100791	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Mar 14, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 14, 2017	Apr 23, 2017
3	PENDING, INSTITUTED	Mar 14, 2017	
4	ANSWER	Apr 21, 2017	
5	P MOT FOR EXT W/ CONSENT	Jun 19, 2017	
6	EXTENSION OF TIME GRANTED	Jun 26, 2017	
7	P MOT TO CONSOLIDATE	Jul 24, 2017	
8	CONSOLIDATED (PARENT); TRIAL DATES RESET	Aug 14, 2017	
9	STIP FOR EXT	Dec 05, 2017	
10	EXTENSION OF TIME GRANTED	Dec 05, 2017	
11	CONSOLIDATED (PARENT); TRIAL DATES RESET	Jan 08, 2018	
12	D MOT FOR EXT W/ CONSENT	Feb 12, 2018	
13	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Jan 30, 2018	
14	D MOT FOR EXT W/ CONSENT	Feb 12, 2018	
15	EXTENSION OF TIME GRANTED	Mar 14, 2018	
16	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 19, 2018	
17	D OPP/RESP TO MOTION	Mar 20, 2018	
18	P REPLY IN SUPPORT OF MOTION	Apr 09, 2018	
19	TRIAL DATES RESET	Jun 26, 2018	
20	TRIAL DATES RESET	Jun 27, 2018	
21	ANSWER TO COUNTERCLAIM	Jul 31, 2018	
22	MOT TO AMEND ANS OR COUNTERCLAIM/AMENDED ANS OR COUNTERCLAIM	Aug 29, 2018	
23	P OPP/RESP TO MOTION	Sep 16, 2018	
24	SUSP PEND DISP OF OUTSTNDNG MOT	Sep 17, 2018	
25	D REPLY IN SUPPORT OF MOTION	Oct 03, 2018	
26	D CERT OF SERVICE FOR # 25	Oct 03, 2018	
27	TRIAL DATES RESET	Jan 11, 2019	
28	ANSWER TO COUNTERCLAIM	Feb 01, 2019	
29	D MOT FOR EXT W/ CONSENT	May 30, 2019	
30	EXTENSION OF TIME GRANTED	Jun 06, 2019	
31	D MOT FOR EXT W/ CONSENT	Sep 04, 2019	
32	EXTENSION OF TIME GRANTED	Sep 11, 2019	
33	P MOT TO JOIN/SUBSTITUTE PARTY	Oct 07, 2019	
34	D MOT FOR EXT W/ CONSENT	Nov 26, 2019	

Type of Proceeding: Cancellation

Proceeding Number: [92054959](#)

Filing Date: Dec 19, 2011

Status: Terminated

Status Date: Jun 25, 2014

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Wang Lao Ji Food & Beverage subsidiary, Yangcheng Pharmaceutical Stock Corp. Ltd of Guangzhou

Correspondent Address: ALLEN ZHI YANG XUE
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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322

Plaintiff(s)

Name: Multi Access Limited

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Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	74717231	2005908

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 19, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 21, 2011	Jan 30, 2012
3	PENDING, INSTITUTED	Dec 21, 2011	
4	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	Jan 27, 2012	
5	STIPULATION FOR AN EXTENSION OF TIME	Jan 27, 2012	
6	EXTENSION OF TIME GRANTED	Jan 27, 2012	
7	CHANGE OF CORRESPONDENCE ADDRESS	Jan 30, 2012	
8	ANSWER	Feb 29, 2012	
9	D REQUEST FOR DISCOVERY CONFERENCE-PHONE	Mar 20, 2012	
10	TRIAL DATES RESET	Apr 03, 2012	
11	STIPULATION FOR AN EXTENSION OF TIME	Oct 26, 2012	
12	EXTENSION OF TIME GRANTED	Oct 26, 2012	
13	STIPULATION FOR AN EXTENSION OF TIME	Nov 26, 2012	
14	EXTENSION OF TIME GRANTED	Nov 26, 2012	
15	P NOTICE OF TAKING TESTIMONY	Mar 25, 2013	
16	PL PRETRIAL DISCLOSURES	Mar 25, 2013	
17	P MOT FOR EXT W/O CONSENT	Mar 25, 2013	
18	P NOTICE OF RELIANCE	Mar 25, 2013	
19	P NOTICE OF RELIANCE	Mar 26, 2013	
20	P NOTICE OF RELIANCE	Mar 26, 2013	
21	P NOTICE OF RELIANCE	Mar 26, 2013	
22	P NOTICE OF RELIANCE	Mar 26, 2013	
23	P NOTICE OF RELIANCE	Mar 26, 2013	
24	P NOTICE OF RELIANCE	Mar 26, 2013	
25	P NOTICE OF RELIANCE	Mar 26, 2013	
26	P NOTICE OF RELIANCE	Mar 26, 2013	
27	P NOTICE OF RELIANCE	Mar 26, 2013	
28	P NOTICE OF RELIANCE	Mar 27, 2013	

29	P NOTICE OF RELIANCE	Mar 27, 2013
30	D MOT TO QUASH	Mar 28, 2013
31	DEF'S MOT TO SUSPEND PROCEEDS PENDING DISPOSITION OF MOT TO QUASH	Apr 09, 2013
32	D OPP/RESP TO MOTION	Apr 09, 2013
33	P OPP/RESP TO MOTION	Apr 12, 2013
34	TRIAL DATES RESET	Apr 18, 2013
35	P CHANGE OF CORRESP ADDRESS	May 03, 2013
36	D MOT TO STRIKE	May 17, 2013
37	P OPP/RESP TO MOTION	Jun 03, 2013
38	P MOT FOR EXT W/O CONSENT	Jul 01, 2013
39	D OPP/RESP TO MOTION	Jul 16, 2013
40	TRIAL DATES REMAIN AS SET	Aug 02, 2013
41	P FINAL BRIEF: TM RULE 2.128	Sep 30, 2013
42	CHANGE OF CORRESP ADDRESS	Oct 04, 2013
43	D FINAL BRIEF: TM RULE 2.128	Oct 30, 2013
44	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Nov 14, 2013
45	P REQ FOR ORAL HEARING	Nov 22, 2013
46	BD'S ORDER	Dec 19, 2013
47	ORAL HEARING SCHEDULED	Jan 22, 2014
48	ORAL HEARING RESET	Feb 12, 2014
49	P APPEARANCE / POWER OF ATTORNEY	Feb 28, 2014
50	ORAL HEARING APPEARANCE RECORD	Mar 06, 2014
51	BD DECISION: DISMISSED	Apr 04, 2014
52	TERMINATED	Jun 25, 2014



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Trademark Assignment Abstract of Title

Total Assignments: 2

Serial #: [75078159](#)

Filing Dt: 03/25/1996

Reg #: [2153322](#)

Reg. Dt: 04/28/1998

Registrant: WANG LAO JI Food & Beveragesubsidiary, Y

Mark:

Assignment: 1

Reel/ Frame: [6281/0583](#)

Recorded: 03/01/2018

Pages: 4

Conveyance: CHANGE OF NAME

Assignor: [WANG LAO JI FOOD & BEVERAGESUBSIDIARY, YANGCHENG PHARMACEUTICAL STOCK CORP. LTD OF GUANGZHOU](#)

Exec Dt: 02/17/2004

Entity Type: CORPORATION

Citizenship: CHINA

Assignee: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Entity Type: LIMITED COMPANY

Citizenship: CHINA

BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

Assignment: 2

Reel/ Frame: [6284/0187](#)

Recorded: 03/05/2018

Pages: 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Exec Dt: 03/01/2017

Entity Type: LIMITED COMPANY

Citizenship: CHINA

Assignee: [GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Entity Type: LIMITED COMPANY

Citizenship: CHINA

BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

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Web interface last modified: August 25, 2017 v.2.6

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

Reg. No. : 5209643
Filed : Nov. 6, 2013
Reg. Date : May 23, 2017





Mark :
Respondent : Kwok Shing Import-Export, Inc.

Guangzhou Wanglaoji)
Pharmaceutical Company Limited)
)
Petitioner,) Cancellation No. _____
)
v.)
)
Kwok Shing Import-Export, Inc.,)
Respondent.)

PETITION FOR CANCELLATION

Guangzhou Wanglaoji Pharmaceutical Company Limited (“Guangzhou Wanglaoji” or “Petitioner”), believes it will be damaged by continued registration of the

mark  , U.S. Trademark Registration No. 5209643, by Kwok Shing Import-Export, Inc. (“Kwok Shing” or “Respondent”). For this reason, Guangzhou Wanglaoji, by its attorneys IpHorgan Ltd, hereby petitions for cancellation of Kwok

Shing’s  registration (“Kwok Shing’s ’643 Registration”). In support of this Petition for Cancellation, Petitioner states as follows:

Petitioner

1) Guangzhou Wanglaoji is a China limited company having its principal place of business at Baiyun District, Guangzhou, Guangdong, China 510000.

2) Guangzhou Wanglaoji owns United States Trademark Registration No.



2153322 for its mark (“Petitioner’s ’322 Registration” and “Petitioner’s ’322 Mark”).

3) On March 25, 1996, a predecessor in interest to Petitioner filed U.S. Trademark Application No. 75078159, the application underlying Petitioner’s ’322 Registration. The application was filed under Sections 1(b) and 44(e).

4) Petitioner’s ’322 Mark was registered on April 28, 1998 under Section 44(e). Petitioner’s ’322 Registration identifies the following goods in international class 30: “processed tea leaves packaged in bags”.

5) Attached hereto as Exhibit A is a true and correct copy of the certificate of registration, along with print outs from the United States Patent and Trademark Office online database showing the current trademark status and assignment history of Petitioner’s ’322 Registration. As can be seen, Petitioner’s ’322 Registration is valid, subsisting, and in full force and effect.

6) Petitioner has filed Declarations of Use and Incontestability under Sections 8 and 15 of the Lanham Act for Petitioner’s ’322 Registration. The Section 8 Declarations were accepted and the Section 15 Declaration acknowledged. Accordingly, this registration is incontestable under Section 15 of the Lanham Act.

7) For many years, Petitioner and its affiliated companies have expended considerable time, money, and effort advertising and promoting Petitioner's '322 Mark in the United States. As a result, Petitioner has developed an excellent reputation for the goods it offers under Petitioner's '322 Mark and has acquired tremendous goodwill in the mark.

8) As a result of these efforts and Petitioner's substantial and continuous use



in commerce of its Mark, Petitioner's '322 Mark is distinctive, well known to the consuming public, and has acquired secondary meaning designating Petitioner as the source of the excellent goods Petitioner and its affiliated companies provide in connection with Petitioner's '322 Mark.



9) The mark does not describe or suggest anything about Petitioner's goods. Accordingly, Petitioner's '322 Mark is inherently distinctive.

10) Because ordinary consumers recognize Petitioner's '322 Mark as designating the source of the goods Petitioner provides under Petitioner's '322 Mark, and Petitioner's '322 Mark is inherently distinctive and has acquired additional distinctiveness through substantial use in U.S. commerce, Petitioner and its affiliated companies have acquired substantial common law rights in Petitioner's '322 Mark.

11) On July 13, 2015, Petitioner's parent company, Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd., of which Petitioner is a subsidiary, filed U.S. Trademark Application Serial No. 86691579 ("Guangzhou Baiyunshan's '579



Application”) for the mark in connection with the following goods:

“Baby food; Candy for medical purposes; Cough lozenges; Cough syrups; First aid kits; Herb teas for medicinal purposes; Herbal honey throat lozenges; Medicinal herbs; Medicinal herbs in dried or preserved form; Medicinal radix glycyrrhizae” in international class 5 on a Section 1(b) basis;

“Candy; Garden herbs, preserved; Grain-based beverages; Grass-based food beverages; Herbal honey; Hop extracts used as flavoring for foods and beverages” in international class 30 on a Section 1(a) basis, first use in 1988 and first use in commerce on April 4, 2013; and

“Bottled water; Cola; Cola drinks; Concentrated fruit juice; Corn-based beverages not for food purposes (chicha morada); Drinking water; Drinking water with vitamins; Energy drinks; Fruit concentrates and purees used as ingredients of beverages; Fruit drinks; Fruit juice; Herbal juices; Mineral and aerated water; Non-alcoholic peanut milk beverages not being a milk substitute; Non-carbonated, non-alcoholic frozen flavored beverages” in international class 32 on a Section 1(a) basis, first use in 1988 and first use in commerce on April 4, 2013.

12) The Examining Attorney refused registration of Guangzhou Baiyunshan’s ’579 Application. One of the grounds for refusal included likelihood of confusion under Section 2(d). In the office action issued on July 20, 2018, Kwok Shing’s ’643 Registration was one of the registrations cited against Guangzhou Baiyunshan’s ’579 Application.

13) The Examining Attorney’s 2(d) refusal was made final on February 19, 2019.

14) Guangzhou Baiyunshan filed on August 15, 2019, a request to divide its ’579 Application. On August 19, 2019, Guangzhou Baiyunshan subsequently filed a

request for reconsideration relating to the parent application, Guangzhou Baiyunshan's '579 Application, which now identifies the following goods:

“Herb teas for medicinal purposes; Herbal honey throat lozenges; Medicinal herbs; Medicinal herbs in dried or preserved form; Medicinal radix glycyrrhizae” in international class 5 on a Section 1(b) basis;


“Garden herbs, preserved; Herbal honey” in international class 30 on a Section 1(b) basis; and

“Drinking water with vitamins; Energy drinks; Herbal juices” in international class 32 on a Section 1(b) basis.


15) On September 11, 2019, the Examining Attorney denied Guangzhou Baiyunshan's request for reconsideration, maintaining the likelihood of confusion refusal and continuing to cite Kwok Shing's '643 Registration.

Respondent

16) Respondent Kwok Shing is a California corporation with its principal place of business at 1150 Thomas Avenue, San Francisco, California 94124.

17) According to USPTO records, on November 6, 2013, Kwok Shing filed U.S. Trademark Application No. 86112378, for the mark  (“Kwok Shing's '643 Mark”) in connection with “herbal jelly” in international class 29 under Section 1(b) of the Lanham Act.

18) On March 4, 2014, the Examining Attorney issued an office action, refusing the 86112378 application on the ground of likelihood of confusion. The

registration cited was U.S. Registration No. 2153322, , the '322 Registration and '322 Mark Petitioner asserts against Kwok Shing in this action.

19) The Examining Attorney stated that Kwok Shing's "mark consists of non-Latin characters and the Respondents [sic] marks consist of those same non-Latin characters."

20) The Examining Attorney further stated:

Applicant intends to use the mark on goods indefinitely identified as 'herbal jelly.' The Respondents [sic] use the mark on teas and herbal teas. Please see the attachments which show that many different herbal products are sold together or emanate from the same commercial source.

21) The Examining Attorney also stated that Kwok Shing's identification of goods, "herbal jelly", was "indefinite", as it was "unclear whether the goods are a type of jelly for food purposes in international class 29 or a type of jelly used as a dietary supplement in international class 5."

22) In responding to the likelihood of confusion refusal, Respondent stated that in "this case, the most relevant of the *DuPont* factors are the differences in the marks when compared *in their entirety*, particularly in appearance, and the differences in the covered goods."

23) Respondent's response then stated that the "different design aspects of each of the design marks at issue readily distinguish them: Where applicant's mark consists of the non-Latin characters in a stylized text [sic], the cited mark contains an elaborately flourished border resembling an unraveled scroll."

24) Regarding the Examining Attorney's determination that the identified goods were indefinite, Respondent amended its goods to "herbal jellies for food purposes" in international class 29.

25) Respondent stated that, “as made clear by the above amendment to applicant’s goods description”, the “goods are sufficiently unrelated”.

26) A notice of allowance for Kwok Shing’s 86112378 application was issued on August 23, 2016.

27) Then, on March 23, 2017, Kwok Shing filed a statement of use.

28) The declaration accompanying the statement of use affirmatively stated that the “applicant is the owner of the mark sought to be registered.”

29) The declaration also stated that “the mark is in use in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified.”


30) The declaration also stated that the “specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.”

31) At a minimum, the statements in Kwok Shing’s declaration, set forth in Paragraphs 29-30, were false.

32) Specifically, the specimen of use submitted with the statement of use and cited in Kwok Shing’s declaration did not show Respondent Kwok Shing’s mark.

33) Instead, Kwok Shing’s specimen showed Petitioner’s ’322 Mark.



34) Compare , Kwok Shing's specimen of use (mark in red),



with Petitioner's '322 Mark:

35) Kwok Shing's specimen of use shows use of Petitioner's '322 Mark with Petitioner's product.

36) On information and belief, Kwok Shing did not use Kwok Shing's '643 Mark in commerce at the time it filed the March 23, 2017, statement of use.

37) On information and belief, Kwok Shing has never used Kwok Shing's '643 Mark in commerce.

38) Petitioner believes it will be damaged by continued registration of Kwok Shing's '643 Mark.

Grounds For Opposition

1. Priority and Likelihood of Confusion

39) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 38 of this Petition.

40) Petitioner's '322 Registration has a filing date, registration date, and first use date that long precede the filing date, registration date, and asserted 2017 first use dates of Kwok Shing's '643 Registration. In addition, Petitioner's '322 Mark has been in

continuous use in U.S. commerce since long before the filing date and alleged first use dates of Kwok Shing's '643 Mark. Petitioner's '322 Mark therefore has priority over Kwok Shing's '643 Registration.

41) The Chinese characters of Petitioner's '322 Mark are the dominant element of the mark.

42) The Chinese characters of Petitioner's '322 Mark are identical to the Chinese characters of Kwok Shing's '643 Mark.

43) Therefore, Petitioner's '322 Mark and Kwok Shing's '643 Mark are highly similar in appearance.

44) The Chinese characters of Petitioner's '322 Mark sound the same as the Chinese characters of Kwok Shing's '643 Mark.

45) Because Petitioner's '322 Mark and Kwok Shing's '643 Mark feature the same Chinese characters, they have the same connotation and convey the same commercial impression.

46) Accordingly, Kwok Shing's '643 Mark is confusingly similar in sound, appearance, commercial impression, and connotation to Petitioner's '322 Mark.

47) The goods identified in Petitioner's '322 Registration are not limited as to their nature, type, channels of trade, or class of purchasers.

48) Accordingly, it is presumed that this registration encompasses all goods of the type described, that they move in all normal channels of trade, and that they are available to all classes of purchasers.

49) Kwok Shing's '643 Registration identifies goods that are highly related and complementary to the goods identified in Petitioner's '322 Registration and that Petitioner offers under Petitioner's '322 Mark.

50) Indeed, Kwok Shing has been a distributor of Petitioner's goods offered under Petitioner's '322 Mark.

51) Given the highly related and complementary nature of the goods identified in the parties' registrations, and the fact that Kwok Shing has distributed goods sold by Petitioner under Petitioner's '322 Mark, these goods have been and are likely to continue to be marketed and sold to the same consumers and in the same channels of trade.

52) Continued registration of Kwok Shing's '643 Mark by Respondent will thus impair Petitioner's exclusive right to use Petitioner's '322 Mark in connection with the goods identified in Petitioner's '322 Registration and offered for sale by Petitioner in U.S. commerce. Moreover, continued registration of Kwok Shing's '643 Mark will diminish the extensive goodwill accrued by Petitioner in Petitioner's '322 Mark.

53) Owing to the following: (1) Petitioner's use of and priority of rights in Petitioner's '322 Registration and Petitioner's '322 Mark, (2) the identity of the Chinese characters in the parties' marks, (3) the highly related and complementary nature of the parties' goods, and (4) the broad exposure of Petitioner's '322 Mark to the same consumers, markets, and channels of trade targeted by Kwok Shing's '643 Mark, Kwok Shing's '643 Mark so resembles Petitioner's '322 Mark as to be likely to cause confusion or mistake, or to deceive, within the meaning of 15 U.S.C Section 1052 (d).

54) Accordingly, Kwok Shing's '643 Registration should be cancelled under 15 U.S.C. Section 1052 (d) on the ground of priority and likelihood of confusion.

2. No Bona Fide Use of Respondent's Mark in Commerce

55) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 54 of this Petition.

56) On information and belief, Kwok Shing did not use the



mark in commerce on March 23, 2017, when it filed its statement of use, or at any time within the expiration of time for filing a statement of use.

57) The specimen of use filed by Kwok Shing in connection with its March 23, 2017, statement of use featured Petitioner's '322 Mark on Petitioner's goods.

58) Kwok Shing's use of a specimen featuring Petitioner's '322 Mark on Petitioner's goods provides a strong inference that Kwok Shing did not use Kwok Shing's '643 Mark covered by Kwok Shing's '643 Registration when it filed the statement of use.

59) Reasonable investigation has provided no evidence of any subsequent use by Kwok Shing of Kwok Shing's '643 Mark in connection with the identified goods.

60) Accordingly, Kwok Shing's '643 Registration is *void ab initio* and should be cancelled under 15 U.S.C. Section 1051(b) on the ground of lack of bona fide use of Kwok Shing's '643 Mark at the time it filed the statement of use or at any time thereafter.

3. Lack of Bona Fide Intent to Use Respondent's Mark in Connection with the Identified Goods

61) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 60 of this Petition.

62) Although Kwok Shing purported to intend to use the mark covered by Kwok Shing's '643 Registration when it filed the 86112378 application, it submitted a photograph of Petitioner's goods, featuring Petitioner's '322 Mark, as its specimen of use.

63) Because (1) there is no evidence that Kwok Shing has ever used Kwok Shing's '643 Mark in connection with the identified goods, and (2) Kwok Shing elected to feature Petitioner's '322 Mark rather than its applied-for mark when it filed the March 23, 2017, statement of use, Kwok Shing's acts provide a strong inference that it did not intend to use, as of the filing date, Kwok Shing's '643 Mark in connection with the goods identified in Kwok Shing's '643 Registration.

64) Accordingly, Kwok Shing's '643 Registration is *void ab initio* and should be cancelled under 15 U.S.C. Section 1051(b) on the ground of lack of bona fide intent to use Kwok Shing's '643 Mark at the time Kwok Shing filed the 86112378 application.

4. Misrepresentation of Source

65) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 64 of this Petition.


66) In its response to the Section 2(d) refusals that cited Petitioner's '322 Registration, Kwok Shing differentiated Petitioner's mark from its own: "Where applicant's mark consists of the non-Latin characters in a stylized test [sic], the cited mark contains an elaborately flourished border resembling an unraveled scroll."

67) But after overcoming the Section 2(d) refusal by alleging differences in the marks, Kwok Shing proceeded to use a specimen of use featuring Petitioner's '322 Mark.

68) Kwok Shing's intentional choice to submit a specimen featuring Petitioner's '322 Mark rather than its own applied-for mark, after arguing that they were different, provides a strong inference that Kwok Shing intended from the outset to use Petitioner's '322 Mark to trade on the goodwill and reputation of Petitioner.

69) Kwok Shing cannot plausibly claim that its use of Petitioner's '322 Mark in the specimen was an accident.



70) In a separate registration for  – the same mark covered by Kwok Shing's '643 Registration – Kwok Shing similarly used specimens featuring, not its own, but Petitioner's '322 Mark.

71) Specifically, in connection with Registration No. 2228470 (“Kwok Shing's '470 Registration”), Kwok Shing three times submitted specimens of use



featuring Petitioner's '322 Mark. It submitted  as its original specimen;



in 2004, it submitted ; and in 2008 it submitted



72) None of Kwok Shing's specimens above demonstrates use of Kwok Shing's '643 Mark. Rather, they each feature Petitioner's '322



Mark:

73) In using Petitioner's '322 Mark in connection with goods it offers in commerce, Kwok Shing has co-opted Petitioner's goodwill and is intentionally encouraging its customers to believe Petitioner, rather than Kwok Shing, is the source of the goods offered by Kwok Shing.

74) In sum, Kwok Shing has blatantly copied Petitioner's '322 Mark and is conflating Kwok Shing's '643 Mark and Petitioner's '322 Mark to pass off its goods as those of Petitioner.

75) Accordingly, Kwok Shing's '643 Registration should be cancelled under Section 14(3) of the Lanham Act, 15 U.S.C. Section 1064(3), on the ground of misrepresentation of source.


5. Fraud in Procuring a Registration

76) Petitioner realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 75 of this Petition.

77) Respondent Kwok Shing knowingly made specific false, material representations of fact in connection with the statement of use it submitted to procure Kwok Shing's '643 Registration, with the intent to deceive the USPTO and improperly obtain a registration to which it was otherwise not entitled.

78) Specifically, on March 23, 2017, Kwok Shing filed a statement of use.



79) Kwok Shing submitted  as the specimen accompanying the statement of use.

80) Kwok Shing stated in the declaration submitted with the statement of use that the “specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.”

81) But the specimen submitted by Kwok Shing did not show its applied-for



mark in use; it showed Petitioner’s ’322 Mark:



82) Under 37 C.F.R. Section 2.56, a specimen of use must show “the mark as used on or in connection with the goods or services.”

83) Under 37 C.F.R. Section 2.88(b) (2), the statement of use required by Section 1(d) of the Act “must include . . . [o]ne specimen showing how the applicant . . . uses the mark in commerce.”

84) As a result, but for a proper specimen of use, an application filed as here under Section 1(b) cannot mature to registration.

85) On April 18, 2017, the USPTO issued a Notice of Acceptance of Kwok Shing’s statement of use, based on Kwok Shing’s misrepresentation that the specimen showed use of its applied-for mark.

86) But for Kwok Shing's false representation that the specimen it provided shows the applied-for mark as used in commerce in connection with the identified goods, the application would not have matured to registration.

87) As a result, Kwok Shing's false representation was a materially false statement.

88) Kwok Shing's submission of a specimen featuring Petitioner's '322 Mark rather than its own was intentionally designed to deceive the USPTO, which can be strongly inferred in two ways.

89) First, Kwok Shing's 86112378 application was blocked by Petitioner's '322 Registration; Kwok Shing was therefore aware of Petitioner's '322 Mark and proceeded in its response to differentiate its mark from Petitioner's '322 Mark to overcome the office action refusal.

90) Second, as shown in Paragraph 71 above, Kwok Shing submitted on three separate occasions specimens of use in the procuring and maintenance of Kwok Shing's '470 Registration that purported to show its mark in use but instead showed only Petitioner's '322 Mark.

91) The only reasonable conclusion is that Kwok Shing falsely represented a material fact with the intention of deceiving the USPTO, and that without submission of this falsehood would not have obtained registration of Kwok Shing's '643 Mark.

92) Accordingly, Kwok Shing's '643 Registration should be cancelled on the ground that Respondent committed fraud in the procurement of its registration.

Conclusion

93) For the foregoing reasons, Kwok Shing's '643 Registration should be cancelled in its entirety on the grounds of priority and likelihood of confusion, no bona fide use of Respondent's mark in commerce when it filed its statement of use, lack of bona fide intent to use Respondent's mark in connection with the identified goods, misrepresentation of source, and fraud.

WHEREFORE, Petitioner respectfully requests that this Petition for Cancellation be granted and that U.S. Trademark Registration No. 5209643 be cancelled.

Date: January 15, 2020

Respectfully submitted,

/John T.D. Bathke/

John T.D. Bathke

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Attorneys for Petitioner,

Guangzhou Wanglaoji Pharmaceutical Company Limited

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,153,322

Registered Apr. 28, 1998

**TRADEMARK
PRINCIPAL REGISTER**



WANG LAO JI FOOD & BEVERAGESUBSI-
DIARY, YANGCHENG PHARMACEUTICAL
STOCK CORP. LTD OF GUANGZHOU
(CHINA CORPORATION)
BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

THE CHINESE CHARACTERS IN THE
MARK transliterate to "WANG LAO JI",
WHICH MEAN "WANG", "OLD", AND
"LUCKY" RESPECTIVELY IN ENGLISH, BUT
WHEN THEY ARE USED TOGETHER, THEY
HAVE NO MEANING.

FOR: PROCESSED TEA LEAVES PACK-
AGED IN BAGS, IN CLASS 30 (U.S. CL. 46).
OWNER OF CHINA REG. NO. 328241,
DATED 10-30-1988, EXPIRES 10-30-1998.

SER. NO. 75-078,159, FILED 3-25-1996.

CAROLYN GRAY, EXAMINING ATTORNEY

Generated on: This page was generated by TSDR on 2020-01-13 12:07:25 EST

Mark:



US Serial Number: 75078159

Application Filing Date: Mar. 25, 1996

US Registration Number: 2153322

Registration Date: Apr. 28, 1998

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Apr. 17, 2018

Publication Date: Sep. 16, 1997

Mark Information

Mark Literal Elements: None

Standard Character Claim: No

Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)

Translation: The Chinese characters in the mark transliterate to "wang lao ji", which mean "wang", "old", and "lucky" respectively in English, but when they are used together, they have no meaning.

Design Search Code(s): 26.13.28 - Quadrilateral shapes (miscellaneous overall shape); Miscellaneous designs with overall quadrilateral shape
28.01.03 - Chinese characters; Japanese characters; Japanese and Chinese characters

Foreign Information

Foreign Registration Number: 328241

Foreign Registration Date: Oct. 30, 1988

Application/Registration Country: Foreign CHINA

Foreign Expiration Date: Oct. 30, 1998

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: processed tea leaves packaged in bags

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: Yes

Filed 44E: Yes

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED

Owner Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG CHINA 510000

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Charles Ho

Docket Number: JILY-1816-US

Attorney Primary charles_ho@barron-young.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

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P.O. Box 1484, General Post Office
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Hong Kong HONG KONG

Phone: 852-2319-2577

Fax: 852-2319-2767

Correspondent e-mail: charles_ho@barron-young.com bytrademark@bar-ron-young.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Kevin Zhang
Representative
Name:

Domestic kevin.zhang2002@gmail.com
Representative e-mail:

Domestic Yes
Representative e-mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Apr. 17, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Apr. 17, 2018	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	76874
Apr. 17, 2018	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	76874
Apr. 17, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Apr. 06, 2018	TEAS SECTION 8 & 9 RECEIVED	
Mar. 14, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 07, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Feb. 26, 2018	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Feb. 26, 2018	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Apr. 28, 2017	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Jun. 25, 2014	TTAB RELEASE CASE TO TRADEMARKS	54959
Jun. 25, 2014	CANCELLATION TERMINATED NO. 999999	54959
Dec. 21, 2011	CANCELLATION INSTITUTED NO. 999999	54959
Aug. 26, 2010	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Aug. 26, 2010	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 31, 2007	UNDELIVERABLE MAIL - NO ACTION TAKEN	99888
Dec. 08, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76533
Dec. 08, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	

Sep. 20, 2007	RESPONSE RECEIVED TO POST REG. ACTION - SEC. 8 & 9	
Sep. 20, 2007	FAX RECEIVED	
Aug. 20, 2007	CASE FILE IN TICRS	
Jul. 09, 2007	FAX RECEIVED	
Jul. 09, 2007	FAX RECEIVED	
Jul. 09, 2007	FAX RECEIVED	
Jun. 28, 2007	FAX RECEIVED	
Jun. 09, 2007	POST REGISTRATION ACTION MAILED - SEC. 8 & 9	76533
Jun. 09, 2007	ASSIGNED TO PARALEGAL	76533
Jun. 09, 2007	REGISTERED - SEC. 15 ACKNOWLEDGED	68502
Jun. 08, 2007	ASSIGNED TO PARALEGAL	68502
May 15, 2007	REGISTERED - SEC. 15 AFFIDAVIT FILED	
May 08, 2007	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
May 15, 2007	TEAS SECTION 15 RECEIVED	
May 08, 2007	TEAS SECTION 8 & 9 RECEIVED	
Apr. 28, 2004	REGISTERED - SEC. 8 (6-YR) ACCEPTED	
Mar. 10, 2004	REGISTERED - SEC. 8 (6-YR) FILED	
Mar. 14, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 10, 2004	TEAS SECTION 8 RECEIVED	
Apr. 28, 1998	REGISTERED-PRINCIPAL REGISTER	
Mar. 16, 1998	Sec. 1(B) CLAIM DELETED	70373
Mar. 16, 1998	NOTICE OF ALLOWANCE CANCELLED	
Dec. 09, 1997	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 16, 1997	PUBLISHED FOR OPPOSITION	
Aug. 15, 1997	NOTICE OF PUBLICATION	
Jun. 06, 1997	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 19, 1997	EXAMINER'S AMENDMENT MAILED	
Apr. 17, 1997	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Oct. 17, 1996	NON-FINAL ACTION MAILED	
Sep. 30, 1996	ASSIGNED TO EXAMINER	67523

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Apr. 17, 2018

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: WANG LAO JI Food & Beveragesubsiary,
Yangcheng Pharmaceutical Stock Corp. LTD of
Guangzhou

Assignment 1 of 2

Conveyance: CHANGE OF NAME

Reel/Frame: [6281/0583](#)

Pages: 4

Date Recorded: Mar. 01, 2018

Supporting Documents: [assignment-tm-6281-0583.pdf](#)

Assignor

Name: [WANG LAO JI FOOD &
BEVERAGESUBSIDIARY, YANGCHENG
PHARMACEUTICAL STOCK CORP. LTD OF
GUANGZHOU](#)

Execution Date: Feb. 17, 2004

Legal Entity Type: CORPORATION

State or Country CHINA
Where Organized:

Assignee

Name: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent

Correspondent Name: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

Correspondent Address: P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [6284/0187](#)

Pages: 2

Date Recorded: Mar. 05, 2018

Supporting Documents: [assignment-tm-6284-0187.pdf](#)

Assignor

Name: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Execution Date: Mar. 01, 2017

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Assignee

Name: [GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Legal Entity Type: LIMITED COMPANY

State or Country CHINA
Where Organized:

Address: BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

Correspondent

Correspondent Name: BARRON & YOUNG INTELLECTUAL PROPERTY LTD

Correspondent Address: P.O. BOX 1484, GENERAL POST OFFICE
HONG KONG, HONG KONG

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 5

Type of Proceeding: Opposition

Proceeding Number: [91234831](#)

Filing Date: May 31, 2017

Status: Pending

Status Date: May 31, 2017

Interlocutory Attorney: SHANNA K SANDERS

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
MCCARTER & ENGLISH LLP
TWO TOWER CENTER BLVD
EAST BRUNSWICK NJ UNITED STATES , 08816

Correspondent e-mail: sgoldsmith@mccarter.com , bostontrademarks@mccarter.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87101038	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
IPHORGAN LTD
195 ARLINGTON HEIGHTS RD STE 125
BUFFALO GROVE IL UNITED STATES , 60089

Correspondent e-mail: clay@iphorgan.net , sswidler@iphorgan.com , mail@iphorgan.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 06, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91234843](#) **Filing Date:** May 31, 2017

Status: Pending **Status Date:** May 31, 2017

Interlocutory Attorney: WINSTON T FOLMAR

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
MCCARTER & ENGLISH LLP
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Correspondent e-mail: sgoldsmith@mccarter.com , bostontrademarks@mccarter.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100809	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
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195 ARLINGTON HEIGHTS RD, SUITE 125
BUFFALO GROVE IL UNITED STATES , 60089

Correspondent e-mail: clay@iphorgan.net , sswidler@iphorgan.com , mail@iphorgan.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	

2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 06, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91234845](#) **Filing Date:** May 31, 2017

Status: Pending **Status Date:** May 31, 2017

Interlocutory Attorney: LAWRENCE (LARRY) T STANLEY

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
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Correspondent e-mail: sgoldsmith@mccarter.com , bostontrademarks@mccarter.com , lshyavitz@mccarter.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100961	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

Correspondent Address: CHRISTOPHER B LAY
Iphorgan Ltd
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BUFFALO GROVE IL UNITED STATES , 60089

Correspondent e-mail: clay@iphorgan.net , sswidler@iphorgan.com , mail@iphorgan.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322
	Ex Parte Appeal Pending	86691579	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	May 31, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	May 31, 2017	Jul 10, 2017
3	PENDING, INSTITUTED	May 31, 2017	
4	ANSWER	Jul 08, 2017	
5	CONSOLIDATED (CHILD OF 91233411)	Aug 14, 2017	

Type of Proceeding: Opposition

Proceeding Number: [91233411](#) **Filing Date:** Mar 14, 2017

Status: Pending **Status Date:** Jan 11, 2019

Interlocutory Attorney: SHANNA K SANDERS

Defendant

Name: Multi Access Limited

Correspondent Address: SUSAN OKIN GOLDSMITH
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Correspondent e-mail: sgoldsmith@mccarter.com , bostontrademarks@mccarter.com , rdesalvo@mccarter.com , lshyavitz@mccarter.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	87100791	

Plaintiff(s)

Name: Guangzhou Baiyunshan Pharmaceutical Holding Co., Ltd.

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Correspondent e-mail: clay@iphorgan.net , mail@iphorgan.net , dlano@iphorgan.net

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322

Ex Parte Appeal Pending [86691579](#)

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Mar 14, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 14, 2017	Apr 23, 2017
3	PENDING, INSTITUTED	Mar 14, 2017	
4	ANSWER	Apr 21, 2017	
5	P MOT FOR EXT W/ CONSENT	Jun 19, 2017	
6	EXTENSION OF TIME GRANTED	Jun 26, 2017	
7	P MOT TO CONSOLIDATE	Jul 24, 2017	
8	CONSOLIDATED (PARENT); TRIAL DATES RESET	Aug 14, 2017	
9	STIP FOR EXT	Dec 05, 2017	
10	EXTENSION OF TIME GRANTED	Dec 05, 2017	
11	CONSOLIDATED (PARENT); TRIAL DATES RESET	Jan 08, 2018	
12	D MOT FOR EXT W/ CONSENT	Feb 12, 2018	
13	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Jan 30, 2018	
14	D MOT FOR EXT W/ CONSENT	Feb 12, 2018	
15	EXTENSION OF TIME GRANTED	Mar 14, 2018	
16	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 19, 2018	
17	D OPP/RESP TO MOTION	Mar 20, 2018	
18	P REPLY IN SUPPORT OF MOTION	Apr 09, 2018	
19	TRIAL DATES RESET	Jun 26, 2018	
20	TRIAL DATES RESET	Jun 27, 2018	
21	ANSWER TO COUNTERCLAIM	Jul 31, 2018	
22	MOT TO AMEND ANS OR COUNTERCLAIM/AMENDED ANS OR COUNTERCLAIM	Aug 29, 2018	
23	P OPP/RESP TO MOTION	Sep 16, 2018	
24	SUSP PEND DISP OF OUTSTNDNG MOT	Sep 17, 2018	
25	D REPLY IN SUPPORT OF MOTION	Oct 03, 2018	
26	D CERT OF SERVICE FOR # 25	Oct 03, 2018	
27	TRIAL DATES RESET	Jan 11, 2019	
28	ANSWER TO COUNTERCLAIM	Feb 01, 2019	
29	D MOT FOR EXT W/ CONSENT	May 30, 2019	
30	EXTENSION OF TIME GRANTED	Jun 06, 2019	
31	D MOT FOR EXT W/ CONSENT	Sep 04, 2019	
32	EXTENSION OF TIME GRANTED	Sep 11, 2019	
33	P MOT TO JOIN/SUBSTITUTE PARTY	Oct 07, 2019	
34	D MOT FOR EXT W/ CONSENT	Nov 26, 2019	

Type of Proceeding: Cancellation

Proceeding Number: [92054959](#)

Filing Date: Dec 19, 2011

Status: Terminated

Status Date: Jun 25, 2014

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Wang Lao Ji Food & Beverage subsidiary, Yangcheng Pharmaceutical Stock Corp. Ltd of Guangzhou

Correspondent Address: ALLEN ZHI YANG XUE
NOVICK KIM & LEE PLLC
1604 SPRING HILL ROAD, SUITE 320
VIENNA VA UNITED STATES , 22182

Correspondent e-mail: trina@schiffnrlaw.com , allen.xue@nklaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	75078159	2153322

Plaintiff(s)

Name: Multi Access Limited

Correspondent Address: J MATTHEW PRITCHARD
THE WEBB LAW FIRM
ONE GATEWAY CENTER SUITE 1200, 420 FT DUQUESNE BOULEVARD
PITTSBURGH PA UNITED STATES , 15222

Correspondent e-mail: trademarks@webblaw.com , litigation@webblaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	REGISTERED AND RENEWED	74717231	2005908

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 19, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 21, 2011	Jan 30, 2012
3	PENDING, INSTITUTED	Dec 21, 2011	
4	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	Jan 27, 2012	
5	STIPULATION FOR AN EXTENSION OF TIME	Jan 27, 2012	
6	EXTENSION OF TIME GRANTED	Jan 27, 2012	
7	CHANGE OF CORRESPONDENCE ADDRESS	Jan 30, 2012	
8	ANSWER	Feb 29, 2012	
9	D REQUEST FOR DISCOVERY CONFERENCE-PHONE	Mar 20, 2012	
10	TRIAL DATES RESET	Apr 03, 2012	
11	STIPULATION FOR AN EXTENSION OF TIME	Oct 26, 2012	
12	EXTENSION OF TIME GRANTED	Oct 26, 2012	
13	STIPULATION FOR AN EXTENSION OF TIME	Nov 26, 2012	
14	EXTENSION OF TIME GRANTED	Nov 26, 2012	
15	P NOTICE OF TAKING TESTIMONY	Mar 25, 2013	
16	PL PRETRIAL DISCLOSURES	Mar 25, 2013	
17	P MOT FOR EXT W/O CONSENT	Mar 25, 2013	
18	P NOTICE OF RELIANCE	Mar 25, 2013	
19	P NOTICE OF RELIANCE	Mar 26, 2013	
20	P NOTICE OF RELIANCE	Mar 26, 2013	
21	P NOTICE OF RELIANCE	Mar 26, 2013	
22	P NOTICE OF RELIANCE	Mar 26, 2013	
23	P NOTICE OF RELIANCE	Mar 26, 2013	
24	P NOTICE OF RELIANCE	Mar 26, 2013	
25	P NOTICE OF RELIANCE	Mar 26, 2013	
26	P NOTICE OF RELIANCE	Mar 26, 2013	
27	P NOTICE OF RELIANCE	Mar 26, 2013	
28	P NOTICE OF RELIANCE	Mar 27, 2013	

29	P NOTICE OF RELIANCE	Mar 27, 2013
30	D MOT TO QUASH	Mar 28, 2013
31	DEF'S MOT TO SUSPEND PROCEEDS PENDING DISPOSITION OF MOT TO QUASH	Apr 09, 2013
32	D OPP/RESP TO MOTION	Apr 09, 2013
33	P OPP/RESP TO MOTION	Apr 12, 2013
34	TRIAL DATES RESET	Apr 18, 2013
35	P CHANGE OF CORRESP ADDRESS	May 03, 2013
36	D MOT TO STRIKE	May 17, 2013
37	P OPP/RESP TO MOTION	Jun 03, 2013
38	P MOT FOR EXT W/O CONSENT	Jul 01, 2013
39	D OPP/RESP TO MOTION	Jul 16, 2013
40	TRIAL DATES REMAIN AS SET	Aug 02, 2013
41	P FINAL BRIEF: TM RULE 2.128	Sep 30, 2013
42	CHANGE OF CORRESP ADDRESS	Oct 04, 2013
43	D FINAL BRIEF: TM RULE 2.128	Oct 30, 2013
44	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Nov 14, 2013
45	P REQ FOR ORAL HEARING	Nov 22, 2013
46	BD'S ORDER	Dec 19, 2013
47	ORAL HEARING SCHEDULED	Jan 22, 2014
48	ORAL HEARING RESET	Feb 12, 2014
49	P APPEARANCE / POWER OF ATTORNEY	Feb 28, 2014
50	ORAL HEARING APPEARANCE RECORD	Mar 06, 2014
51	BD DECISION: DISMISSED	Apr 04, 2014
52	TERMINATED	Jun 25, 2014



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Pages: 4

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Assignor: [WANG LAO JI FOOD & BEVERAGESUBSIDIARY, YANGCHENG PHARMACEUTICAL STOCK CORP. LTD OF GUANGZHOU](#)

Exec Dt: 02/17/2004

Entity Type: CORPORATION

Citizenship: CHINA

Assignee: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Entity Type: LIMITED COMPANY

Citizenship: CHINA

BAIYUN DISTRICT JIANGCUN
GUANGZHOU GUANGDONG, CHINA

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Assignor: [FOOD AND BEVERAGE BRANCH OF GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Exec Dt: 03/01/2017

Entity Type: LIMITED COMPANY

Citizenship: CHINA

Assignee: [GUANGZHOU WANGLAOJI PHARMACEUTICAL COMPANY LIMITED](#)

Entity Type: LIMITED COMPANY

Citizenship: CHINA

BAIYUN DISTRICT JIANGCUN
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