

ESTTA Tracking number: **ESTTA1102058**

Filing date: **12/16/2020**

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

Proceeding	92075700
Party	Defendant Rustic Town Inc.
Correspondence Address	RUSTIC TOWN INC 2551 SAGE BRUSH LANE SUGAR LAND, TX 77479 UNITED STATES Primary Email: naveen@rustictown.com No phone number provided.
Submission	Answer
Filer's Name	Naveen Jindal
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Signature	/Naveen Jindal/
Date	12/16/2020
Attachments	Answer to Petition for Cancellation 92075700.pdf(629882 bytes)

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

Proceeding	92075700
Party	Defendant, RUSTIC TOWN INC.
Correspondence Address	2551,SAGE BRUSH LN, Sugar Land , TEXAS 77479 naveen@rustictown.com
Submission	Answer
Filer's Name	NAVEEN JINDAL
Filer's email	naveen@rustictown.com
Signature	/ Naveen Jindal /
Date	12/16/2020
Attachments	Answer to petition for cancellation 92075700.pdf (12 pages) (510,000 bytes)

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

In the Matter of Registration No. 6081185

For the mark: ORGANIC KOSHA

Registered: June 16, 2020

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KOSHA ORGANICS, LLC :

Petitioner :

:

v. : Cancellation No: 92075700

:

RUSTIC TOWN INC. :

Registrant :

-----X

REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

The Registrant, RUSTIC TOWN Inc. hereby respond to the Petition for Cancellation as follows:

1. That the Registrant does not have sufficient knowledge regarding the claims put forward by the Petitioner in Paragraph 1 of the Petition for Cancellation and therefore denies any veracity in the same;
2. That the Registrant does not have sufficient knowledge regarding the claims put forward by the Petitioner in Paragraph 2 of the Petition for Cancellation and therefore denies any veracity due to claims being unsubstantiated by any documentary evidence;
3. That the Registrant does not contest the veracity of the claim put forward by the Petitioner in Paragraph 3 of the Petition for Cancellation. The Registrant humbly submits that it is the owner of the United States Trademark Registration Number 6081185 for the trademark ORGANIC KOSHA (Hereinafter “**Mark**”) for *Organic turmeric, aswhagandha, triphala, neem and tulsi/holy basil supplements*. The application for the mark was filed on 22nd February 2019 and claims a first date of commerce from 22nd April 2020 [EXHIBIT I - Registration Certificate] ;
4. That the Registrant denies the veracity of the claims as put forward by the Petitioner in Paragraph 4 of the Petition for Cancellation as such claims are not adequately substantiated by documentary evidence such as tax invoices, sales records and other such logistical reports. The Petitioner’s mere submission of the website does in no manner prove that there indeed was interstate commerce carried out continually since September 2019 ;
5. That the Registrant does not have sufficient knowledge regarding the claims put forward by the Petitioner in Paragraph 5 of the Petition for Cancellation and therefore denies any veracity in the same;
6. That the Registrant does not have sufficient knowledge regarding the claims put forward by the Petitioner in Paragraph 6 of the Petition for Cancellation due to such claims being

unsubstantiated by any documentary evidence and therefore denies any veracity in such claims;

7. That the Registrant denies the veracity of the claims put forward by the Petitioner in Paragraph 7 of the Petition for Cancellation as such claims are not at all substantiated by any documentary evidence such as tax invoices, sales records, advertisement prints and other such logistical reports of expanding and continual interstate commerce;
8. That the Registrant accepts the veracity of the claims as specified by the Petitioner under Paragraph 8 of the Petition for Cancellation to the extent and regarding specifically to the Registrant;
9. That the Registrant does not contest the veracity of the claim put forward by the Petitioner in Paragraph 9 of the Petition for Cancellation but would like to state at the very outset that the Registrant's date of domain registration and filing trademark application (22nd February 2019) predates the date of first use of the Petitioner (1st July 2019) and that the date of publication of the Registrant's Mark (3rd September 2019) is prior to the date of filing of the Petitioner's mark (18th September 2019). The Registrant further contends that its Mark has been registered whereas the Petitioners has been refused the registration of their mark by the USPTO;
10. That the Registrant, while not denying that ORGANIC WELLNESS is the manufacturer of the goods, explicitly denies the second part of the claims put forward by the Petitioner in Paragraph 10 of the Petition for Cancellation regarding ORGANIC WELLNESS being the "true owner" of the Mark. The Registrant contends that the United States Patent Office clearly recognises the Registrant as the owner of the Mark. The Registrant further contends that merely because the Registrant's name / title is not mentioned in the packaging of the goods sold under the Mark does in no manner direct that ORGANIC WELLNESS is to be considered as the "true owner" of the Mark;
11. That the Registrant denies any veracity in the claims put forward by the Petitioner made under Paragraph 11 of the Petition for Cancellation; for ORGANIC WELLNESS is merely

the manufacturer of the goods sold under the Mark and does not have any claim over the Mark;

12. That the Registrant denies any veracity in the claims put forward by the Petitioner under Paragraph 12 of the Petition for Cancellation for ORGANIC WELLNESS is merely the manufacturer of the goods sold under the Mark and has no claim whatsoever over the Mark;
13. That the Registrant, while agreeing with the first part of the claims put forward by the Petitioner under Paragraph 13 of the Petition for Cancellation, explicitly denies the second part of the same for ORGANIC WELLNESS is merely the manufacturer of the goods sold under the Mark and has no claim whatsoever over the Mark;
14. That the Registrant denies the veracity of the claims put forward by the Petitioner under Paragraph 14 of the Petition for Cancellation; for ORGANIC WELLNESS is merely the manufacturer of the goods sold under the Mark and has no claim whatsoever over the Mark;
15. That the Registrant unequivocally denies the veracity of the claims put forward by the Petitioner under Paragraph 15; for ORGANIC WELLNESS is not the true owner of the Mark and therefore the question of assignability does not arise at all in the present case;
16. That the Registrant denies the claims put forward by the Petitioner under the Paragraph 16 of the Petition for Cancellation and contends that it has in no manner violated 15 U.S.C. § 1051 and the rules set forth in TMEP § 1201.06;
17. That the Registrant, regarding the claims put forward by the Petitioner under Paragraph 17 of the Petition for Cancellation, humbly contends that the date of its domain name registration and filing trademark predates the date of first use of the Petitioner's Mark; and the date of publication of the Registrant's Mark predate the date of the Petitioner's Application which implies that the Petitioner was very well aware of the Registrant's Mark. While the Registrant was in the process of commercializing under its Mark, the Petitioner with mala-fide intentions sought registration for its mark and deliberately claimed first use and use in commerce knowing full well that the Registrant had not done so in its application;
18. That the Registrant accepts the claims made by the Petitioner in Paragraph 18 of the Petition for Cancellation to the extent that there indeed lies certain similarity between the marks. The

Registrant humbly contends that the Petitioner is squarely to blame for indulging in such means and methods for the date of filing of the Registrant and date of publication predates the filing date of the Petitioner and that the Petitioner would have been aware of the existence of the Registrant's application at the time of filing for its mark.

19. That the Registrant, while affirming the existence of the said report as put forward by the Petitioner in Paragraph 19 of the Petition for Cancellation, humbly contends that the report and its contents clearly state that the Petitioner's mark has been refused on grounds of the Registrant's Mark already being registered and that it is the Petitioner's mark that is similar to that of the Registrant's and not vice versa. The Registrant further contends that the grounds looked into by the the learned USPTO as under said document is purely reliant on grounds of similarity and nowhere raises any argument regarding first use;
20. That the Registrant affirms the claims put forward by the Petitioner under Paragraph 20 of the Petition for Cancellation in regards to their being a similarity regarding the class of goods of the Petitioner and the Registrant. The Registrant further contends that the claim of similar classification of goods is not in any manner against the Registrant and rather must be read against the Petitioner who despite definitely knowing about the Registrant's mark due to prior filing date and publication of the Registrant's Mark, proceeded to file their mark's application, such action clearly showcasing that the Petitioner knew of the risks associated with the same and chose to proceed;
21. That the Registrant affirms the claims put forward by the Petitioner under Paragraph 21 of the Petition for Cancellation to the extent that there does lie some similarity in the trade channels but contends that this claim is not in any manner against the Registrant and rather must be read against the Petitioner who despite definitely knowing about the Registrant's mark via prior filing date and publication of the Registrant's Mark, proceeded to file their mark's application, such action clearly showcasing that the Petitioner knew of the risks associated with the same and chose to proceed ;
22. That the Registrant denies the claims as put forward by the Petitioner under Paragraph 22 of the Petition for Cancellation. The Registrant strongly contends that such allegations are

unsubstantiated and there has been no documentary evidence put forward wherein there has been any form of damage caused to the Petitioner in the past, present and foreseeable future. Conversely, the Registrant contends that should the Petitioner be allowed to carry out with this Petition of Cancellation and trade under its mark there stands a very reasonable possibility of damages to the Registrant's trade and inter-state commerce;

23. That the Registrant denies the veracity of the claims put forward by the Petitioner under Paragraph 23 of the Petition for Cancellation. The Registrant contends that it indeed is the true and registered owner of the Mark and that ORGANIC WELLNESS were merely the manufactures of the products marketed under the Mark. ;

AFFIRMATIVE DEFENCE:

The Registrant contends that the Petition for Cancellation is based on statements taken out of context and references to rights that do not exist:

1. That the Registrant states that they made the application for the Mark in February 2019, Publication in September 2019 and was granted registration for the same in June 2020. The Petitioner made their application in September 2019, after the date of publication of the Registrant's Mark and therefore was very well aware of the existence of the Registrant's Mark. This is further substantiated by the point that the date of domain registration and filing of the Registrant's trademark is before the Petitioner's trademark filing and first use. However, the Petitioner carried forward with its efforts to gather registration of its mark and thus assumed the risk of any damage, prospective or otherwise upon itself. It is only when the trademark of the Petitioner was not granted did the Petitioner immediately seek out action against the Registrant. Therefore, the Petitioner is in no position and has no right to claim cancellation of the Registrant's mark due to the Doctrine of waiver and unclean hands and failure of necessary due diligence at the time of registration;

2. The Registrant contends that they are in no manner in violation of 15 USC § 1051 and TMEP § 1201.06 (a) and the cases cited therein. Such claims are utterly baseless and based on conjecture that are not supported in any manner. TMEP § 1201.06 (a) especially is not applicable for it is applicable to the use of the Manufacturer's Mark by the distributor, importer and/or distributing agent. In the present scenario, neither has ORGANIC WELLNESS in any manner contested the rights of the Registrant on the Mark nor has the Registrant made any declaration that the mark indeed is of ORGANIC WELLNESS. The Mark is unequivocally and completely owned by the Registrant and any allegations made otherwise are not true and must be dismissed immediately;
3. The Petitioners refusal to accept that the USPTO has granted the Registrant's Mark and attempt to cancel the same on faulty and unsubstantiated claims must be dismissed at the very outset and prevent any form of future hearing regarding the same from taking place;
4. THEREFORE, the Registrant humbly prays that the Petition for Cancellation be dismissed.

Respectfully Submitted,

/ Naveen Jindal /

Date: 12 / 16 / 2020

Director, Rustic Town Inc.

2551,SAGE BRUSH LN,

Sugar Land , TEXAS 77479

naveen@rustictown.com

EXHIBIT I

United States of America
United States Patent and Trademark Office

Organic Kosha

Reg. No. 6,081,185

Registered Jun. 16, 2020

Int. Cl.: 5

Trademark

Principal Register

Rustic Town Inc (TEXAS CORPORATION)

2551 Sage Brush Lane
Sugar Land, TEXAS 77479

CLASS 5: Organic herbal supplements; Organic turmeric, aswhagandha, triphala, neem, and tulsi/holy basil dietary supplements

FIRST USE 4-22-2020; IN COMMERCE 4-22-2020

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown: "ORGANIC"

SER. NO. 88-312,043, FILED 02-22-2019



Andrei Iancu

Director of the United States
Patent and Trademark Office



REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Cancellation No: 92075700

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of foregoing REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION has been served on counsel for Petitioner , by forwarding said copy on this 16th Day of December 2020, via email and FedEx courier service, to:

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Respectfully Submitted

Date: 16/12/2020

/Naveen Jindal/

Director, Rustic Town Inc.
2551,SAGE BRUSH LN,
Sugar Land , TEXAS 77479
naveen@rustictown.com

Cancellation No: 92075700

CERTIFICATE OF FILING

I hereby certify that this Answer to Petition for Cancellation (With Affirmative Defences) is being filled with the United States Patent and Trademark Office via Trademark Trial and Appeal Board's Electronic System for Trademark Trials and Appeals [ESTTA] on-line filing process.

12/16/2020
(Date of Deposit)

/Naveen Jindal/
(Signature)

12/16/2020
(Date of Signature)

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