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

Proceeding	92076266
Party	Defendant Alabama Home Products, Inc.
Correspondence Address	ALABAMA HOME PRODUCTS INC 813 SHADES CREST RD BIRMINGHAM, AL 35226 UNITED STATES Primary Email: mrpdeli@aol.com No phone number provided.
Submission	Motion to Dismiss - Rule 12(b)
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Date	03/06/2021
Attachments	Hot Bama Sauce - Motion to Dismiss Petition for Cancellation.pdf(366657 bytes)

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

**In the matter of U.S. Registration 6191342
For the mark HOT BAMA SAUCE
Registered on November 3, 2020**

SAUER BRANDS, INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92076266
)	
ALABAMA HOME PRODUCTS, INC.)	Registration No. 6191342
)	
Registrant.)	
)	
)	
)	

REGISTRANT’S MOTION TO DISMISS PETITION FOR CANCELLATION

Registrant Alabama Home Products, Inc., by and through its undersigned counsel, hereby moves to dismiss the Petition for Cancellation (the "Petition") for failure to state a claim upon which relief may be granted, and in support, states as follows:

1. Petitioner Sauer Brands, Inc. (“Petitioner”) is not the owner of record of U.S. Reg. Nos. 1532218 and 3776904, and therefore, does not have standing to file the Petition.
2. The attachments to the Petition clearly show that the owner of record of Registration Nos. 1532218 and 3776904 is “The C.F. Sauer Company,” not Sauer Brands, Inc. (*See* Petition, Exhibit A.)
3. At the pleading stage, all that is required is that a petitioner allege facts sufficient to show a "real interest" in the proceeding, and a "reasonable basis" for its belief that it would suffer some kind of damage if the mark is registered. *Empresa Cubana del Tabaco v. General*

Cigar Co., 753 F.3d 1270, 111 USPQ2d 1058, 1062 (Fed. Cir. 2014); *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025 (Fed. Cir. 1999); *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185, 189 (CCPA 1982). To plead a "real interest," a petitioner must allege a "direct and personal stake" in the outcome of the proceeding. *See Empresa Cubana del Tabaco*, 111 USPQ2d at 1062; *Ritchie*, 50 USPQ2d at 1026. The allegations in support of a petitioner's belief of damage must have a reasonable basis "in fact." *Ritchie*, 50 USPQ2d at 1027.

4. Petitioner has not shown that it has a real, direct interest or stake in the outcome of this proceeding, or that it is the owner of the trademarks upon which the Petition is based.

Based on the foregoing, Registrant respectfully requests that the Petition be dismissed with prejudice.

Respectfully submitted,

ALABAMA HOME PRODUCTS, INC.

By Counsel:

/N. DeWayne Pope/

N. DeWayne Pope

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Counsel for Alabama Home Products, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **REGISTRANT'S MOTION TO DISMISS PETITION FOR CANCELLATION** was served on the following counsel for Petitioner **via email** on March 6, 2021:

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