

ESTTA Tracking number: **ESTTA1162300**

Filing date: **09/27/2021**

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

Proceeding	92077396
Party	Defendant UMEYA, Inc.
Correspondence Address	RHEA CARAS LAMB & KAWAKAMI LLP 333 S GRAND AVENUE SUITE 4200 LOS ANGELES, CA 90071 UNITED STATES Primary Email: rcaras@lkfirm.com Secondary Email(s): prendon@lkfirm.com, jlee@lkfirm.com, rhea.caras@gmail.com 213-630-5535
Submission	Answer
Filer's Name	Rhea Caras
Filer's email	rcaras@lkfirm.com, prendon@lkfirm.com, jlee@lkfirm.com
Signature	/rhea caras/
Date	09/27/2021
Attachments	Answer and Affirmative Defenses.pdf(354188 bytes)

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

In the Matter of Registrations Nos.	4880491 and 5138359
Filed	June 16, 2021
Mark	SNACK HOUSE
Issued:	January 5, 2016 and February 7, 2017

SNACK HOUSE FOODS LLC,

Petitioner,

v.

UMEYA, INC.,

Registrant.

Cancellation No. 92077396

ANSWER AND AFFIRMATIVE DEFENSES

Pursuant to TBMP Sections 310 and 311, Registrant Umeya, Inc. (“Umeya”), acting by and through its undersigned counsel, hereby responds to Petitioner Snack Foods LLC’s (“Petitioner”) Petition for Cancellation as follows:

To the extent Petitioner’s introductory paragraph states factual allegations, Umeya denies that Petitioner will be damaged by the continued registration of the mark SNACK HOUSE as identified in United States Trademark Registration Nos. 4880491 and 5138359 (“the ‘491 and ‘359 Registrations”). Umeya admits that the ‘491 and ‘359 Registrations speak for themselves. Umeya denies that Petitioner is entitled to any relief.

1. Umeya is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Petition for Cancellation and, therefore, denies the same.

2. Umeya admits that it is a California corporation having a business address at 1800 Oak Street #509, Torrance, CA 90501.
3. Umeya denies that Petitioner is the owner of the mark SNACK HOUSE. Umeya is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 of the Petition for Cancellation and, therefore, denies the same.
4. Umeya admits that the TSDR record for Application No. 88/854924 speaks for itself. Umeya further admits that the '491 and '359 Registrations speak for themselves. Umeya is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of the Petition for Cancellation
5. Umeya admits that the '491 and '359 Registrations speak for themselves. To the extent paragraph 5 of the Petition for Cancellation states any additional allegations, Umeya denies the same.
6. Umeya admits that Application Serial No. 90/770466 speaks for itself. Umeya is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 of the Petition for Cancellation and, therefore, denies the same. Umeya specifically denies that Petitioner will be damaged by the continued registration of the mark SNACK HOUSE as identified in the '491 and '359 Registrations.
7. Paragraph 7 of the Petition for Cancellation consists of legal characterizations and conclusions to which no response is required. To the extent a response is required, Umeya denies the allegations in paragraph 7 of the Petition for Cancellation.
8. Umeya denies the allegations contained in paragraph 8 of the Petition for Cancellation.

9. Umeya admits that it is restructuring its business. Umeya denies the remaining allegations contained in paragraph 9 of the Petition for Cancellation.
10. Umeya denies the allegations contained in paragraph 10 of the Petition for Cancellation.
11. Umeya denies the allegations contained in paragraph 11 of the Petition for Cancellation.
12. Paragraph 12 of the Petition for Cancellation consists of legal characterizations, legal conclusions and argument to which no response is required. To the extent a response is required, Umeya denies the allegations and/or is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Petition for Cancellation and, therefore, denies the same.
13. Umeya denies the allegations contained in paragraph 13 of the Petition for Cancellation.
14. Answering paragraph 14 of the Petition for Cancellation, Umeya incorporates by reference its responses to paragraphs 1-13 as well as the introductory paragraph of the Petition for Cancellation as if fully set forth herein.
15. Umeya denies the allegations contained in paragraph 15 of the Petition for Cancellation.
16. Umeya denies the allegations contained in paragraph 16 of the Petition for Cancellation.

PETITIONER'S REQUEST FOR RELIEF

Petitioner's Request for Relief does not state any factual allegations, and therefore, no response is required. Umeya denies that Petitioner is entitled to any such relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Petitioner's claims alleged in the Petition for Cancellation fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioner's claims alleged in the Petition for Cancellation lack merit and are insufficient to support the cancellation of the '491 and '359 Registrations.

THIRD AFFIRMATIVE DEFENSE

Petitioner will not suffer any damages or harm by Umeya's continued registration and use of its SNACK HOUSE mark as identified in the '491 and '359 Registrations.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred by unclean hands, laches, acquiescence, waiver, and/or estoppel.

FIFTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred because Umeya has priority of use of its mark SNACK HOUSE as identified in the '491 and '359 Registrations over Petitioner's use of the mark SNACK HOUUSE as identified in its Application Serial No. 90/770466.

SIXTH AFFIRMATIVE DEFENSE

Umeya reserves the right to amend its Answer to the Petition for Cancellation, to amend its affirmative defenses, to assert such additional Affirmative Defenses as it deems appropriate and such Counterclaims as may be permitted that may now exist or in the future are available based on discovery and further factual investigation in this proceeding.

WHEREFORE, Registrant Umeya, Inc. respectfully requests that the Trademark Trial and Appeal Board dismisses the above-captioned Petition for Cancellation in its entirety and that the Board grant Registrant Umeya, Inc. such other relief as it deems just and appropriate.

Dated: September 27, 2021

Respectfully submitted,
UMEYA, INC.

By: 

Rhea Caras, Esq.

Lamb & Kawakami LLP

333 South Grand Avenue, Suite 4200

Los Angeles, CA 90071


Phone: 310-490-9900

rcaras@lkfirm.com

CERTIFICATE OF SERVICE

I, Rhea Caras, counsel to Registrant Umeya, Inc., in Cancellation No. 92077396, certify that, on the 27th day of September, 2021, I served a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES, via electronic mail, upon:

Narek Zohrabyan, Esq.
Phil IP Law Inc.
700 North Brand Blvd., Suite 220
Glendale, CA 91203
Phone: 619-929-0606
nzoh@philip.law


Rhea Caras, Esq.