

ESTTA Tracking number: **ESTTA1140977**

Filing date: **06/17/2021**

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 | Seoul Trading USA Co. | | |
| Entity | Corporation | Citizenship | New Jersey |
| Address | 360 SOUTH VAN BRUNT STREET ENGLEWOOD, NJ 07631 UNITED STATES | | |
| Attorney information | MICHAEL N. MERCANTI LUCAS & MERCANTI LLP 30 BROAD STREET, 21ST FLOOR NEW YORK, NY 10004 UNITED STATES Primary Email: info@lmiplaw.com Secondary Email(s): docketing@lmiplaw.com, info@lmiplaw.com 212-661-8000 | | |
| Docket Number | 4195-04-OPP | | |

Registration Subject to Cancellation

| | | | |
|------------------|--|-------------------|------------|
| Registration No. | 4993745 | Registration date | 07/05/2016 |
| Registrant | Oh!Nutrition LLC 3020 OLD RANCH PARKWAY, SUITE 300 SEAL BEACH, CA 90740 UNITED STATES | | |

Goods/Services Subject to Cancellation

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| Class 005. First Use: 2016/04/13 First Use In Commerce: 2016/04/13 All goods and services in the class are subject to cancellation, namely: Vegan dietary and nutritional supplements |
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Grounds for Cancellation

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|-------------|-----------------------------|
| Abandonment | Trademark Act Section 14(3) |
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|-------------|--|
| Attachments | 4195-04-TM-OPP_Petition_Cancel.pdf(36418 bytes) |
|-------------|--|

| | |
|-----------|-----------------------|
| Signature | /Michael N. Mercanti/ |
| Name | Michael N. Mercanti |
| Date | 06/17/2021 |

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

In the Matter of:

Trademark Registration No.: 4,993,745

For the mark: OH!VEGAN [& Design]

Date registered: July 05, 2016

PETITION TO CANCEL

Seoul Trading USA Co., a corporation of the State of New Jersey having a business address at 360 South Van Brunt Street, Englewood, NJ 07631 (hereinafter, "Petitioner"), hereby petitions for cancellation of U.S. Registration Number 4,993,745, registered on July 05, 2016, for all the goods listed therein.

To the best of Petitioner's knowledge, the name and address of the current owner of the above identified registration is Oh!Nutrition LLC, a limited liability company of the State of Arizona having a business address at 3020 Old Ranch Parkway, Suite 300, Seal Beach, CA 90740 (hereinafter, the "Registrant").

Petitioner believes that it is being damaged by the above identified registration and hereby petitions to cancel the same.

As grounds for cancellation, petitioner alleges:

1. Petitioner has trademark application serial number 90/476,692 pending in the USPTO, filed on January 20, 2021 for the mark O! VEGAN [& DESIGN]. The application recites the following goods: frozen meals consisting primarily of meat, fish, poultry or vegetables, in International Class 029.
2. Petitioner's trademark application has been refused based on Registrant's U.S. registration number 4,993,745. Thus, Petitioner is being damaged by Registrant's '745 registration.
3. Petitioner has invested and continues to invest considerable time, money, and effort to promote and establish the reputation of the mark O! VEGAN [& DESIGN] to identify Petitioner as the source of its goods associated with the mark. As a result, Petitioner has developed valuable goodwill throughout the U.S. with respect to the mark O! VEGAN [& DESIGN].
4. On information and belief, Petitioner believes that Registrant is not currently making use in commerce, as defined by 15 USC §1127, of the mark OH!VEGAN [& Design] for vegan dietary and nutritional supplements.
5. On information and belief, Petitioner believes that, if Registrant has ever made use in commerce, as defined by 15 USC §1127, of the mark OH!VEGAN [& Design] for vegan dietary and nutritional supplements, that Registrant has now abandoned the OH!VEGAN [& Design] for vegan dietary and nutritional supplements, because Registrant has discontinued use in commerce of the mark and does not intend to resume use of the mark in commerce, as evidenced by the current nonuse of the mark.
6. Based on the nonuse in commerce and/or abandonment by the Registrant of the mark OH!VEGAN [& Design] for vegan dietary and nutritional supplements, Petitioner petitions for cancellation of the '745 registration pursuant to 15 USC §1064 (Lanham Act §14(3)).

WHEREFORE, Petitioner believes that it is being damaged by registration number 4,993,745, and respectfully requests that the same be cancelled and that the Trademark Trial and Appeal Board grant any and all further relief to Petitioner that the Board finds necessary and just under the circumstances.

Respectfully Submitted,

Dated: June 17, 2021

By: /Michael N. Mercanti/

Michael N. Mercanti

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ATTORNEYS FOR PETITIONER