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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	SIMPLY KETO NUTRITION LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	823 ARLINGTON AVE N SAINT PETERSBURG, FL 33701 UNITED STATES		

Correspondence information	RICK RUZ, ESQ. ATTORNEY OF RECORD RUZ & RUZ, PL 7355 SW 87TH AVENUE, SUITE 200 MIAMI, FL 33157 UNITED STATES Primary Email: rickruz@ruzlaw.com No phone number provided.		
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Registration Subject to Cancellation

Registration No.	6010760	Registration date	03/17/2020
Registrant	Keto Karma, Inc. 4104 GEORGE AVE., #5 SAN MATEO, CA 94403 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 009. First Use: 2015/03/22 First Use In Commerce: 2015/03/22 All goods and services in the class are subject to cancellation, namely: Downloadable educational course materials in the field of nutrition, food, and cooking; Downloadable non-fiction books in the field of nutrition, food, and cooking; Audio books in the nature of nutrition, food, and cooking; Computer application software for mobile phones, portable media players, handheld computers, namely, software for accessing recipes and diet planning in the fields of nutrition, food, and cooking; Downloadable e-books in the fields of nutrition, food, and cooking; E-books featuring nutrition, food, and cooking recorded on computer media; Electronic books featuring nutrition, food, and cooking recorded on computer media</p>
<p>Class 016. First Use: 2015/03/22 First Use In Commerce: 2015/03/22 All goods and services in the class are subject to cancellation, namely: Books in the field of nutrition, food, and cooking; Printed books in the field of nutrition, food, and cooking; Series of non-fiction books in the field of nutrition, food, and cooking</p>

Grounds for Cancellation

Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp.,
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	580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
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Attachments	Petition for Cancellation - Simpl Neto Nutr. LLC v. Keto Karma, Inc a nd EXhibit.pdf(592193 bytes)
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Signature	/Rick Ruz/
Name	Rick Ruz, Esq.
Date	06/17/2021

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

In the matter of: Registration No. 6,010,760

Date of Registration: Mar. 17, 2020

Mark: SIMPLY KETO

SIMPLY KETO NUTRITION LLC

Petitioner,

vs. Cancellation No. _____

KETO KARMA, INC.,

Registrant.

_____/

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION
OF U.S. REGISTRATION NO. 6,010,760

Petitioner, SIMPLY KETO NUTRITION LLC (hereinafter, "Petitioner"), is a Florida limited liability company with a principal address of 823 Arlington Ave N, Saint Petersburg, FL 33701, and believes that it will be damaged by the continued registration of the mark shown in Reg. No. 6,010,760 (the

"SIMPLY KETO" Registration), owned KETO KARMA, INC., 4104 George Ave., #5 San Mateo CA 94403. (hereinafter, "Registrant").

As grounds for cancellation, Petitioner alleges that:

1. Petitioner filed an application for registration of the mark SIMPLY KETO NUTRITION on Apr. 30, 2019, covering "Artificial sweeteners; Sugar-free artificial sweetener for beverages, all aforementioned goods for keto diet" in International Class 001; "Liquid nutritional supplement; Powdered nutritional supplement drink mix, all aforementioned goods for the keto diet" in International Class 005; and "Brownie mixes; Brownies; Cookie mixes; Pancake mixes; Pancake syrup; Pancakes; Spice blends; Spice mixes; Spice rubs; Spices; Spices in the form of powders; Natural sweeteners, all aforementioned goods for the keto diet" in International Class 030, which was subsequently assigned U.S. Trademark Application Serial No. 88/409,315 (hereinafter, PETITIONER'S SIMPLY KETO NUTRITION Application").
2. On July 12, 2018, Registrant filed a trademark application seeking registration for the mark SIMPLY KETO in connection with "Downloadable educational course materials in the

field of nutrition, food, and cooking; Downloadable non-fiction books in the field of nutrition, food, and cooking; Audio books in the nature of nutrition, food, and cooking; Computer application software for mobile phones, portable media players, handheld computers, namely, software for accessing recipes and diet planning in the fields of nutrition, food, and cooking; Downloadable e-books in the fields of nutrition, food, and cooking; E-books featuring nutrition, food, and cooking recorded on computer media; Electronic books featuring nutrition, food, and cooking recorded on computer media" in International Class 009 and "Books in the field of nutrition, food, and cooking; Printed books in the field of nutrition, food, and cooking; Series of non-fiction books in the field of nutrition, food, and cooking" in International Class 016. The application was assigned Application Serial No. 88/035,815.

3. Registrant's application was granted registration on March 17, 2020, and issued under Registration No. 6,010,760 in connection with the above-mentioned goods and services.

4. Petitioner is being harmed by the Simply Keto Registration. Because of the respective mark's identical

literal elements and highly similar class of goods, the USPTO Examining Attorney has refused the PETITIONER'S SIMPLY KETO NUTRITION Application for registration on the grounds that the Applications are likely to be confused with the Simply Keto Registration.

COUNT I: FRAUD ON THE TRADEMARK OFFICE

5. Petitioner repeats and incorporates by reference the allegations of the above paragraphs.
6. On July 12, 2018, Registrant filed a section 1(a) "use based" trademark application seeking registration for the mark SIMPLY KETO in connection with "Downloadable educational course materials in the field of nutrition, food, and cooking; Downloadable non-fiction books in the field of nutrition, food, and cooking; Audio books in the nature of nutrition, food, and cooking; Computer application software for mobile phones, portable media players, handheld computers, namely, software for accessing recipes and diet planning in the fields of nutrition, food, and cooking; Downloadable e-books in the fields of nutrition, food, and cooking; E-books featuring nutrition, food, and cooking recorded on computer media; Electronic

books featuring nutrition, food, and cooking recorded on computer media" in International Class 009 and "Books in the field of nutrition, food, and cooking; Printed books in the field of nutrition, food, and cooking; Series of non-fiction books in the field of nutrition, food, and cooking" in International Class 016. The application was assigned Application Serial No. 88/035,815.

7. Registration No. 6,010,760 was obtained fraudulently in that the formal application papers filed by Registrant, under notice of Section 1001 of Title 18 of the United States Code, stated that Registrant first used the mark in commerce on March 22, 2015, for in connection with "Downloadable educational course materials in the field of nutrition, food, and cooking; Downloadable non-fiction books in the field of nutrition, food, and cooking; Audio books in the nature of nutrition, food, and cooking; Computer application software for mobile phones, portable media players, handheld computers, namely, software for accessing recipes and diet planning in the fields of nutrition, food, and cooking; Downloadable e-books in the fields of nutrition, food, and cooking; E-books featuring

nutrition, food, and cooking recorded on computer media;
Electronic books featuring nutrition, food, and cooking
recorded on computer media" in International Class 009 and
"Books in the field of nutrition, food, and cooking;
Printed books in the field of nutrition, food, and cooking;
Series of non-fiction books in the field of nutrition,
food, and cooking" in International Class 016. Said
statement was false in that the true facts were that the
mark SIMPLY KETO was not used by the Registrant in the
United States to provide the stated services, but was used,
if at all, by the December 24, 2019. See Exhibit A.

8. Upon information and belief, Registrant knowingly had not made use in commerce of the SIMPLY KETO designation in relation to the all the goods and services listed in Application Serial No. 88/035,815 as alleged by Registrant.
9. Upon information and belief, Registrant knowingly and falsely alleged use in commerce of SIMPLY KETO mark as alleged in Application Serial No. 88/035,815 which matured to Registration No. 6,010,760.
10. Upon information and belief, Registrant knowingly and falsely alleged use in commerce of SIMPLY KETO mark in

Application Serial No. 88/035,815 with intent to deceive the United States Patent and Trademark office in order to obtain registration of Registrant's mark for SIMPLY KETO mark.

11. Upon information and belief, Registrant has never sold "Downloadable educational course materials in the field of nutrition, food, and cooking; Downloadable non-fiction books in the field of nutrition, food, and cooking; Audio books in the nature of nutrition, food, and cooking; Computer application software for mobile phones, portable media players, handheld computers, namely, software for accessing recipes and diet planning in the fields of nutrition, food, and cooking; Downloadable e-books in the fields of nutrition, food, and cooking; E-books featuring nutrition, food, and cooking recorded on computer media; Electronic books featuring nutrition, food, and cooking recorded on computer media" under the SIMPLY KETO mark, "in commerce," as the term is defined under the Lanham Act.
12. Upon information and belief, Registrant knowingly and falsely alleged use in commerce of the SIMPLY KETO mark in connection to the specimen of record submitted with the

application filed on November 2, 2019, with the intent to deceive the United States Patent and Trademark office in order to obtain the registration of Registrant's SIMPLY KETO mark.

13. U.S. Registration No. 6,010,760 is void *ab initio* because Registrant had not used the mark on the first use in commerce date alleged in the application, at the time the application was filed.

14. U.S. Registration No. 6,010,760 is void *ab initio* because Registrant had not used the mark in commerce, and in connection with the specimen or record submitted at the time the application as filed.

15. Upon information and belief, U.S. Registration No. 6,010,760 was obtained by virtue of Registrant's knowingly false allegation of use in commerce with intent to deceive the United States Patent and Trademark Office in relation to the application for the mark SIMPLY KETO that matured into U.S. Registration No. 6,010,760.

16. Upon information and belief, U.S. Registration No. 6,010,760 was obtained by virtue of Registrant's knowingly false allegation of the date of first use in commerce with

intent to deceive the United States Patent and Trademark Office in relation to the application for the mark THE SIMPLY KETO that matured into U.S. Registration No. 6,010,760.

17. Upon information and belief, U.S. Registration No. 6,010,760 was obtained by virtue of Registrant's knowingly false allegation of use in commerce of the relevant goods and services with intent to deceive the United States Patent and Trademark Office in relation to the application for the mark SIMPLY KETO that matured into U.S. Registration No. 6,010,760.

18. Upon information and belief, U.S. Registration No. 6,010,760 was obtained by virtue of Registrant's knowingly false allegation of use in commerce in connection with the exhibited specimen(s) or record with intent to deceive the United States Patent and Trademark Office in relation to the application for the mark SIMPLY KETO that matured into U.S. Registration No. 6,010,760

WHEREFORE, Petitioner, by its attorneys, deems that its is being damaged by Reg. No. 6,010,760, and respectfully requests

Exhibit "A"



Beyond Simply Keto: Shifting Your Mindset and Realizing Your Worth, with a Step-by-Step Guide to Keto and 100+ Easy Recipes

Paperback – December 24, 2019

by Suzanne Ryan (Author)

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Print length	Language	Publisher	Publication date	Dimensions	ISBN-10
 352 pages	 English	 Victory Belt Publishing	 December 24, 2019	 8 x 1 x 10 inches	 1628603712



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