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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	Irvine Holdings, LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	1227 N. FRANKLIN STREET TAMPA, FL 33602 UNITED STATES		

Attorney information	ANTON HOPEN SMITH & HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677 UNITED STATES Primary email: ah@smithhopen.com Secondary email(s): trademarks@smithhopen.com 813-925-8505		
Docket no.	2661.35		

Registration subject to cancellation

Registration no.	5798822	Registration date	07/09/2019
Register	Principal		
Registrant	Smokehouse Joint LLC 614 FRELINGHUYSEN AVENUE NEWARK, NJ 07114 UNITED STATES		

Goods/services subject to cancellation

Class 043. First Use: Apr 1, 2018 First Use In Commerce: Apr 1, 2018 All goods and services in the class are subject to cancellation, namely: Restaurants; fast casual restaurants featuring barbecue
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Grounds for cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	2661-35_Petition to Cancel_Trademark.pdf(185435 bytes)
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Signature	/anton hopen/
Name	Anton Hopen Sr.
Date	01/15/2023

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

Irvine Holdings, LLC,
A Florida Company,
Petitioner,

v.

Smokehouse Joint LLC,
A New Jersey Company,
Respondent.

In the matter of Registration No. **5798822**

For the mark **AMERICAN HEROES
SMOKEHOUSE and Design**



Date registered **July 9, 2019**

Cancellation No. N/A

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Irvine Holdings, LLC (herein “Petitioner”), a company duly organized and existing under the laws of Florida, having a principal place of business located at 1227 N. Franklin Street, Tampa, Florida 33602, by its attorneys, believes that it is damaged by the abandoned registration of the mark shown in Registration No. 5798822, issued on July 9, 2019, for the mark AMERICAN HEROES SMOKEHOUSE and Design (hereinafter “the Registration”), owned by Smokehouse Joint LLC (hereinafter “Respondent”) and hereby petitions for cancellation of same. Respondent, no longer existing, was formerly a company organized and existing under the laws of New Jersey,

having a principal place of business located at 614 Frelinghuysen Avenue, Newark, New Jersey 07114. The grounds for cancellation are as follows:

1. Respondent obtained under the provisions of the Lanham Act, registration on the Principal Register of the Trademark AMERICAN HEROES SMOKEHOUSE and Design on July 9, 2019, for: “Restaurants; fast casual restaurants featuring barbecue.”

2. On February 9, 2022, Petitioner filed an application for ROBERT IRVINE'S AMERICAN HEROES for “Restaurant services, namely, restaurants featuring a theme promoting the American military and first responders” (Serial No. 97259156, herein “Petitioner’s Application”).

3. On December 2, 2022, Petitioner received a non-final refusal to register Petitioner’s Application. The examining attorney cited a likelihood of confusion with the Registration under Section 2(d) of the Lanham Act.

4. Noting a common mission between Applicant and Registrant in supporting American military and first responders, undersigned initially contacted Registrant’s listed trademark counsel Scott Heller on December 7, 2022. Attorney Heller confirmed with undersigned by a return voice message that not only is the company for Registrant out of business but the proprietor (Edward Danberry) had passed away.

5. Undersigned further confirmed the termination of Registrant’s operation with prior operator Daniel Misuraca. Mr. Misuraca confirmed in a telephone discussion on December 13, 2022, that Group One, LLC initially took over the Registration and operation but then all the

locations operating under the Registration were permanently closed pre-COVID in 2020 without any intent to use in the future.

6. Mr. Misuraca also provided contact information for Group One, LLC's Chief Financial Officer, Ray Olsen. Undersigned contacted Mr. Olsen who also confirmed there are no assets for Registrant nor any further operations, and no individual left with authority to conduct business.

7. Continued registration of the abandoned mark shown in said U.S. Registration No. 5798822 will damage Petitioner as it is cited in a 2(d) refusal against Petitioner's Application.

WHEREFORE, Petitioner requests that this Petition for Cancellation be sustained and that U.S. Registration No. 5798822 for the mark AMERICAN HEROES SMOKEHOUSE and Design as set forth therein be cancelled for lack of use and abandonment.

Please direct all correspondence to the attention of:

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Very respectfully,

SMITH & HOPEN, P.A.

By: /Anton Hopen/

Dated: January 15, 2023

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