

ESTTA Tracking number: **ESTTA1452196**

Filing date: **07/27/2025**

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

Proceeding no.	92088225
Party	Defendant RICU Industries
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Date	07/27/2025
Attachments	Motion_for_Leave_to_Correct_July_11_Reply_250727.pdf(129459 bytes)

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

Charles Rizzo,
Petitioner

v.

RICU Industries, LLC,
Registrant

Cancellation No. 92088225
Reg. No. 7,694,252 – SIMPLY TWISTED

DOCUMENT TITLE:

Respondent's Motion for Leave to Correct July 11, 2025 Reply

DATE:

July 27, 2025

SUBMITTED BY:

Steven Cuculich
Authorized Representative
RICU Industries, LLC
Email: scuculich@ricuindustries.com

RESPONDENT'S MOTION FOR LEAVE TO CORRECT JULY 11, 2025 REPLY

Respondent respectfully moves for leave to correct a clerical citation error in its July 11, 2025 Reply to Petitioner's Opposition to Respondent's Motion to Dismiss under Fed. R. Civ. P. 12(b).

In the Reply, Respondent inadvertently cited "In re Lerner, 222 USPQ 324 (TTAB 1984)." Upon review of the record and pursuant to correspondence received from Petitioner's counsel on July 24, 2025, Respondent seeks to clarify that the correct citation should be to In re Stellar Int'l, Inc., 159 USPQ 48 (TTAB 1968).

This correction is limited solely to the citation reference in the section addressing lawful versus unlawful goods in the context of mixed-use. It does not alter the substance of Respondent's arguments, introduce new evidence, or prejudice Petitioner in any way. The correction is submitted solely to ensure the accuracy of the record.

Respondent respectfully requests that the Board accept the attached corrected page from the July 11 Reply reflecting the proper citation.

Dated: July 27, 2025

/s/ Steven Cuculich
Steven Cuculich
Authorized Representative
RICU Industries, LLC
scuculich@ricuindustries.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion for Leave to Correct July 11, 2025 Reply with attached corrected page has been served on counsel for Petitioner by email on this 27th day of July, 2025, addressed as follows:

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By: /s/ Steven Cuculich
Steven Cuculich
Authorized Representative
RICU Industries, LLC

Corrected Page from July 11, 2025 Reply

Even if undisputed, mixed-use does not compel cancellation. Where a mark is used for both lawful and unlawful goods, cancellation is not automatic unless the identification necessarily encompasses illegal goods. In re Stellar Int'l, Inc., 159 USPQ 48 (TTAB 1968); cf. Morgan Brown (identification "retail store services featuring herbs including marijuana"). Registrant's identification has always covered "herbal smoking products" that are lawful; the proposed Section 7 amendment narrows it further.