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

Proceeding	92066411
Party	Plaintiff Oneida Nation
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Date	09/12/2017
Attachments	2017-09-12 Response to Motion to Dismiss.pdf(273319 bytes )

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

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ONEIDA NATION,	)	
	)	
Petitioner	)	CANCELLATION NO. 92066411
	)	
v.	)	Registration No. 2,309,491
	)	Serial No. 75/978,733
ONEIDA INDIAN NATION OF NEW YORK	)	Mark: ONEIDA INDIAN NATION
	)	
	)	Registration No. 4,808,677
Registrant.	)	Serial No. 78/978,999
	)	Mark: ONEIDA
	)	
	)	Registration No. 4,813,028
	)	Serial No. 78/978,992
	)	Mark: ONEIDA

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**PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO DISMISS**

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Petitioner provides this response to Registrant's motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted filed August 14, 2017 and pursuant to the Board's Order of September 5, 2017, extending Petitioner's deadline to respond.

Petitioner does not concede or acquiesce to any of the points or arguments raised in Registrant's motion. Petitioner, however, also believes that amending the petition to add further particularity and to be abundantly clear is the most efficient course of action for this proceeding. As such, Petitioner has filed herewith its First Amended Consolidated Petition for Cancellation, rendering moot Registrant's August 14, 2017 motion.

Petitioner asserts that this amended pleading is proper and permitted as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1). See, 37 CFR § 2.115; TBMP § 507.01. Should the Board believe that a Motion to Amend the Pleadings is needed, Petitioner hereby so moves pursuant to

Fed. R. Civ. P. 15(a)(2). Such amendment should be freely given as Petitioner believes the present amendment moots Registrant's pending motion. TBMP § 503.03.

Respectfully submitted,

Date: September 12, 2017

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## **CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing was served by email on this 12th day of September 2017, upon Registrant at the following email addresses of record:

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