

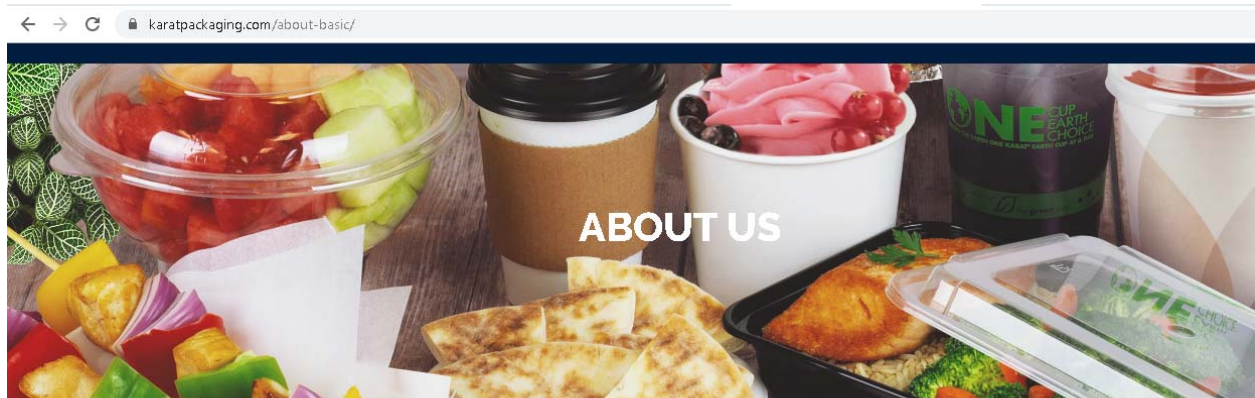
**U.S. APPLICATION SERIAL NO. 88336518**  
**MARK: TOTALCLEAN**  
**APPLICANT: AMD Medicom Inc.**  
**CORRESPONDENT’S REFERENCE/DOCKET NO: Y378**

**RESPONSE TO OFFICE ACTION**

In the proper section of this form, Applicant has limited the application to clarify the nature and trade channels of its goods. Applicant’s goods, as amended in Class 5, are: “Disinfectant wipes and disinfectant sprays for use by dentists, doctors and their patients in a dental, hospital or medical setting.”

Applicant’s goods are not sold in standard retail channels of trade to the general purchasing public, nor are they intended for household or commercial use. Accordingly, Applicant respectfully requests that the likelihood of confusion refusal with respect to the cited marks in U.S. Registration Nos. 5439017 and 5439016 be withdrawn.

The cited owner caters specifically to the restaurant and food service industry. Goods for the cited mark entail cleaning products to remove stains, primarily in kitchens and in places where food is served. See link below:



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**About Us**

Karat Packaging is a rapidly-growing manufacturer and distributor of environmentally-friendly, single-use disposable products primarily used in restaurants and foodservice settings. The company supplies a wide range of products for national restaurant chains, as well as smaller, regional chains. Karat’s products include food packaging, containers, tableware, cups, lids, cutlery and straws. The company also provides additional environmentally friendly options to sustainably-conscious customers.

According to TMEP Section 1207.01(a)(i), the issue is not whether the goods will be confused with each other, but whether the public will be confused as to their sources. *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993); *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975). Purchasers seeking dishwashing soaps, hand soaps, glass cleaners, oven cleaners, grill cleaners, degreasers and all-purpose cleaners, are seeking such cleaning products for household and commercial kitchen or

restaurant use. These purchasers are not likely to encounter or be confused by a mark for medical disinfectant sprays and wipes.

The type of consumer is of utmost importance in this field. Target purchasers of Applicant's goods are well informed about the clinical aspects and safety standards of the products necessary for their field. As the court stated in *In re NexGen Res. Corp.*, 2006 TTAB LEXIS 338 (TTAB 2006):

As set forth in *Astra Pharmaceutical Products, Inc. v. Beckman Instruments, Inc.*, 718 F.2d 1201, 220 USPQ 786, 791 (1st Cir. 1983), for a likelihood of confusion to exist, "it must be based on confusion of some relevant person; i.e., a customer or user, and there is always less likelihood of confusion where goods are ... used by highly specialized individuals after careful consideration." Here, the services at issue on their face are not only distinctly different, but they ... would be bought, as indicated previously, only by highly knowledgeable, discriminating and sophisticated purchasers after thorough deliberation rather than on impulse. As our principal reviewing court has pointed out, such "sophistication is important and often dispositive because sophisticated end-users may be expected to exercise greater care." *Electronic Design & Sales Inc. v. Electronic Data Systems Corp.*, at 21 USPQ2d 1392.

The goods sold under Applicant's mark not purchased on impulse, nor are they purchased by the general public. Therefore, confusion with the cited mark is unlikely, as the goods under the respective marks are offered through distinct channels of trade for specific and different end uses. The circumstances under which the respective goods are marketed and sold would not give rise to the mistaken belief that they originate from a common source.

Accordingly, Applicant respectfully requests that the likelihood of confusion refusal under Trademark Act Section 2(d) be withdrawn, and the mark be passed to publication in the Official Gazette of the U.S. Trademark Office.