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CERTIFICATE OF MAILING BY EXPRESS MAIL

The undersigned hereby certifies that the foregoing PETITION FOR CANCELLATION is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to the Commissioner for Trademarks, Box TTAB FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on March 5, 2002, Express Mail Label No. EV052773266US

Date: March 5, 2002



Eric A. Lerner

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

-----X	
J.W.E. SILK, INC.,	:
	:
Petitioner	:
	:
v.	:
	:
ENVY INC.,	:
	:
Registrant.	:
-----X	

Cancellation No. _____

Registration No. 1,446,556

Mark: ENVY

Class: 25

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Box TTAB FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513



03-05-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #94

PETITION FOR CANCELLATION

Sir:

Petitioner, J.W.E. SILK, INC. ("Petitioner") a New York corporation, with offices at 180 Madison Avenue, Suite 1601, New York, New York 10016, believes that it is damaged by the registration by ENVY INC., ("Registrant"), Cedar Grove, New Jersey, of U.S. Trademark Registration No. 1,446,556 for the mark ENVY and design ("Registrant's Mark") and Petitioner hereby petitions for cancellation of the same.

It is alleged that:

1. Petitioner has applied to register the mark ENVY on the Principal Register for use on or in connection with clothing, namely, juniors', misses', and women's shirts, bandannas, bathrobes, beachwear, belts, blouses, coats, dresses, gloves, halter tops, hats, jackets, night gowns, night shirts, pajamas, pants, rainwear, shawls, sleepwear, sweat shirts, sweaters, swimsuits, t-shirts, and top in International Class 25 under §1(b) of the Trademark Act on May 17, 2001 under Application Serial No. 76-199,460.

2. Petitioner has a bona fide intent to use the trademark ENVY on or in connection with the aforementioned goods.

3. Petitioner received an official office action from the United States Patent and Trademark Office on September 5, 2001 refusing registration of Petitioner's ENVY trademark on the grounds that it is confusingly similar to Registrant's ENVY and design trademark, U.S. Registration No. 1,446,556.

4. On information and belief, Registrant has abandoned said Registrant's Mark by non-use of said mark in commerce with no intent to resume use.

5. Petitioner is damaged by the continuance of Registrant's Mark. The Examiner in Petitioner's application refused registration of Petitioner's ENVY trademark based on Registrant's Mark, and Petitioner's continued and legal use of their mark is impaired by the continued registration of said abandoned mark.

WHEREFORE, Petitioner prays that Registration No. 1,446,556 be cancelled, and that this Petition be sustained.

A duplicate copy of this Petition for Cancellation and the required fee are enclosed herewith.

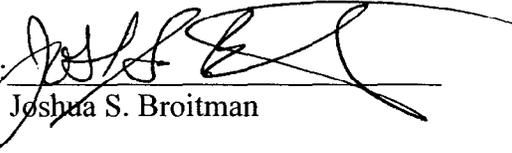
Please recognize as attorneys for Fusion Technologies, Inc., Glenn F. Ostrager, Leighton K. Chong, Dennis M. Flaherty, Joshua S. Broitman, Donald A. Baricevac, Manette Dennis, Frank Tolin and Eric Lerner and the law firm of Ostrager Chong & Flaherty LLP, 825 Third Avenue, New York, New York 10022-7519.

Dated: March 5, 2002

Respectfully Submitted,

OSTRAGER CHONG & FLAHERTY LLP
Attorneys for Applicant

By:



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