

TTAB

[58275/9]

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



07-12-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

In the matter of Trademark Registration Nos.: 790,755  
1,307,122  
1,559,059  
1,245,412

For the marks: EAGLE  
EAGLE and Design  
EAGLE CLOTHES  
EAGLE CLOTHES and Design

"Express Mail" mailing label No.: EL647142630US  
Date of Deposit: July 11, 2002

I hereby certify that this paper or fee 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 above and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.  
Name: Gerri Renna

Signature: *Gerri Renna*

TRADEMARK TRIAL AND APPEAL BOARD  
JUL 19 PM 12:21

International Class: 25  
Date registered: June 8, 1965

-----X  
MARCRAFT CLOTHES, INC.,  
Petitioner,  
v.  
EAGLE CLOTHES, INC.,  
Registrant.  
-----X

CANCELLATION NO. \_\_\_\_\_

**PETITION TO CANCEL**

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

07/17/2002 JHARLEY 00000120 790755

01 FC:376 1200.00 OP

204159.1

12

In the matter of U.S. Trademark Registration Nos. 790,755 registered June 8, 1965 for men's coats, topcoats and suits in International Class 25; 1,245,412 registered July 12, 1983 for men's overcoats, topcoats, suits, jackets and slacks, and women's coats, topcoats, and suits in International Class 25; 1,307,122 registered November 27, 1984 for men's and women's suits, overcoats and topcoats in International Class 25; and 1,559,059 registered October 3, 1989 for men's clothing, namely suits, sport coats, trousers, raincoats, overcoats, topcoats, outerwear, jackets, hats, caps, pajamas, scarves, mufflers, leather coats, vests, gloves, suspenders, swimwear, robes and cummerbunds in International Class 25 (collectively, the "EAGLE Registrations") to Eagle Clothes, Inc. of 10 W. 33<sup>rd</sup> Street, New York, New York, and assigned to Cliftex Corporation, a corporation organized and existing under the laws of Massachusetts, having an office and place of business at 194 Riverside Avenue, New Bedford, Massachusetts ("Respondent"). Petitioner Marcraft Clothes, Inc., a corporation organized and existing under the laws of the State of New York, having an office and place of business 6 Ram Ridge Road, Chestnut Ridge, New York 10977 ("Petitioner") believes that it is being and will continue to be damaged by the EAGLE Registrations and petitions to cancel the EAGLE registrations pursuant to 15 U.S.C. § 1064(3).

As grounds therefor, Petitioner, through its attorneys, allege as follows:

1. Petitioner is a corporation which manufactures clothing, including men's tailored clothing.

2. Petitioner has a bona fide intent-to-use the mark EAGLE on its goods, namely men's tailored clothing, suits, sport jackets, coats and slacks.

3. Petitioner is the owner of a pending U.S. Intent to Use Trademark Application, filed on July 10, 2002, for the EAGLE mark for use in connection with men's tailored clothing, namely suits, sport jackets, coats and slacks in International Class 25 ("Petitioner's Application").

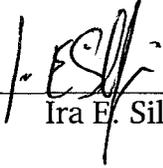
4. Upon information and belief, Respondent has ceased use of the marks which are the subject of the EAGLE Registrations, with the intent not to resume such use. As a result, Respondent has abandoned the EAGLE Registrations.

5. If there is a likelihood of confusion between Petitioner's EAGLE mark which is the subject of Petitioner's Application, and Respondent's Marks which are the subjects of the EAGLE Registrations, then the continued existence of the EAGLE registrations on the Principal Register will damage Petitioner, since the EAGLE Registrations are in derogation of and place a cloud over Petitioner's right to commence use of its EAGLE mark on men's tailored clothing, namely suits, sport jackets, coats and slacks, and will prevent Petitioner from obtaining a registration for its EAGLE mark in connection with its goods.

WHEREFORE, Petitioner requests that its Petition to Cancel be granted, and that U.S. Trademark Registration Nos. 790,755, 1,245,412, 1,307,122, and 1,559,059 be cancelled and stricken from the Principal Register.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN  
Attorneys for Petitioner,  
Marcraft Clothes, Inc.  
90 Park Avenue  
New York, NY 10016  
(212) 697-5995

  
By: \_\_\_\_\_  
Ira E. Silfin

Dated: New York, New York  
July 11, 2002