

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

DB

Mailed: September 10, 2002

Cancellation No 92040797

IRA E. SILFIN

v.

CLIFTEX CORPORATION

**DWAYNE BOWLING, LEAD LEGAL ASSISTANT**

The Board inadvertently forwarded the notice instituting this proceeding and a copy of the petition to cancel that was intended for registrant to an incorrect address. The error is regretted.

Accordingly, the above notice, with enclosure, is remailed to registrant at the correct address: Cliftex Corporation, 194 Riverside Avenue, New Bedford, MA 02746-2452.

If there has been any transfer of interest in the involved registration, registrant must so advise the Board and registrant must submit copies of the appropriate documents. See Section 10 of the Trademark Act and Patent and Trademark Rules 3.71 and 3.73.

TRADEMARK TRIAL AND  
APPEAL BOARD  
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In view of the circumstances herein, the time for filing an answer to the petition to cancel is extended to forty days from the mailing date of this order. Any discovery requests or notices served that remain unanswered as of the mailing date of this order must be reserved in accordance with the rules, unless otherwise agreed to by the parties.

In accordance with the Trademark Rules of Practice, discovery is open, and the close of discovery and testimony dates are set as indicated below. In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Discovery period to close: March 29, 2003

Testimony period for party in  
Position of plaintiff to close  
(opening thirty days prior thereto): June 27, 2003

Testimony period for party in  
Position of defendant to close  
(opening thirty days prior thereto): August 26, 2003

Rebuttal testimony period to close  
(opening fifteen days prior thereto): October 10, 2003

Briefs shall be filed in accordance with Trademark Rule 1.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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 Rpt Dc #28

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.: E1647142630US  
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  
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International Class: 25

Date registered: June 8, 1965

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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

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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").

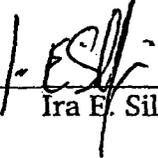
4. Upon information and belief, Respondent has ceased use of the marks which are the subject of the EAGLE Registrations, with the intent not to resume such use. As a result, Respondent has abandoned the EAGLE Registrations.

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