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

SCHOTT BROS. INC.,	)	
	)	
Petitioner,	)	
	)	Trademark Registration
v.	)	No. 1,940,356 issued
	)	December 12, 1995
R.H.C. (SA),	)	
	)	Cancellation No.:
Registrant.	)	
	)	



**PETITION FOR CANCELLATION**

IN THE MATTER of the registration by R.H.C. (S.A.) (hereinafter referred to as "Registrant") for the trademark SHOT INTERNATIONAL ("international" disclaimed) in Class 9 for "protective helmets and gloves for protection against accidents for motorcyclists" and International Class 25 for "clothing; namely, shirts and T-shirts, jackets, pants; jackets, pants and suits for motorcyclists; shoes; athletic shoes; boots; motorcycle boots; and gloves", Registration No. 1,940,356 issued December 12, 1995 on the Principal Register (based upon application Serial No. 74/378971 filed April 13, 1993, claiming priority based upon French Application No. 93/452,568 filed January 25, 1993 and registered under the same number on the same date), SCHOTT BROS. INC., a corporation organized and existing under the laws of the State of New Jersey, which has its principal place of business at 358 Lehigh Avenue, Perth Amboy, New Jersey 08862 (hereinafter referred to as "Petitioner"), believes that it will be damaged by Registration No. 1,940,356 and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Opposer adopted and began using the trademark SCHOTT at least as early as

1964 for men's boys' and women's outerwear, including motorcycle jackets and clothing. Said

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SCHOTT goods have been continuously sold in interstate commerce since the date of first use of the SCHOTT trademark. Opposer's first use of the SCHOTT trademark thus commenced long before Petitioner's filing of its application to register SHOT RACING (stylized), its registration therefor, and possible use of the mark in the United States.

2. Long before Petitioner filed its application to register SHOT INTERNATIONAL, Petitioner has been and continues to be known as "Schott".

3. Petitioner's SCHOTT trademark and "Schott" tradename are pronounced "shot".

4. Within the motorcycle clothing and motorcycle industries, Petitioner's SCHOTT trademark and tradename are well known and highly regarded as being synonymous with motorcycle jackets and clothing of outstanding quality.

5. Petitioner also sells other clothing items in connection with its SCHOTT trademark and goods which are related or complementary to motorcycle jackets or are for use by motorcyclists.

6. Petitioner owns the following trademark registrations:

a. Registration No. 1,167,412 for SCHOTT for "men's, boys' and women's outerwear - namely, jackets". Said registration issued on September 1, 1981 and is valid, subsisting and in full force and effect.

b. Registration No. 1,640,572 for SCHOTT N.Y.C. (exclusive rights to "N.Y.C." disclaimed) for "jackets and hats for men, women and children; pants for men and women". Said registration issued on April 9, 1991 and is valid, subsisting and in full force and effect.

c. Registration No. 2,103,758 for SCHOTT NYC. (exclusive rights to "NYC" disclaimed) for "belts". Said registration issued on October 7, 1997 and is valid,

subsisting and in full force and effect.

7. Petitioner, since a date long prior to April 13, 1993, the filing date of Respondent's application to register SHOT INTERNATIONAL and continuously to the present date, has extensively used in interstate commerce the aforesaid SCHOTT trademark for its goods. The SCHOTT trademark has been and is being used in connection with the goods distributed and sold extensively by Petitioner in interstate commerce in a manner customary to the trade to identify Petitioner as the source of such goods. By reason of said extensive distribution, sales and advertising of goods in connection with the SCHOTT trademark, said SCHOTT trademark is famous and has achieved a reputation and goodwill throughout the United States of inestimable value.

8. At a date long prior to Registrant's filing date of its application to register SHOT INTERNATIONAL and continuously to the present date, Petitioner has widely and at great expense advertised and promoted in the United States products distributed and sold under the SCHOTT trademark. Advertisements for said SCHOTT branded products have been placed in a wide variety of print media. Said advertising over the course of time has cost Petitioner large sums of money. As a result of said advertising and the concomitant large distribution and sale of goods in connection with the SCHOTT trademark, Petitioner's said SCHOTT trademark has become well known in the motorcycle jacket and motorcycle industries and identified in the mind of the trade and the relevant segment of the public with Petitioner's products, as evidencing that products bearing said SCHOTT trademark are manufactured, sponsored or affiliated with Petitioner.

9. The dominant feature of Respondent's SHOT INTERNATIONAL mark is the SHOT element, which is pronounced identically to Opposer's SCHOTT trademark.

Respondent's SHOT INTERNATIONAL mark is thus closely similar in sound and appearance to Petitioner's SCHOTT trademark and capitalizes on the recognition of Petitioner's trademark. Respondent's goods are identical and complementary to the goods sold under Petitioner's SCHOTT trademark. Moreover, Respondent's goods are, or will be, advertised and sold to the same consumers as said goods of Petitioner, or in cross-secting trade channels.

10. Petitioner is being damaged by the continuance of Registration No. 1,940,356 because of the presumptions to Respondent that flow from said registration.

#### **FIRST GROUND FOR CANCELLATION**

11. On information and belief, Respondent has not used for several years and is not currently using SHOT INTERNATIONAL as a trademark for any goods.

12. By reason of nonuse of the SHOT INTERNATIONAL trademark, Respondent has abandoned its rights therein.

#### **SECOND GROUND FOR CANCELLATION**

13. Petitioner repeats and realleges paragraphs 1 through 10 as though fully set forth herein.

14. Prospective and actual consumers of Respondent's SHOT INTERNATIONAL goods who are familiar with Petitioner and its goods distributed in connection with the SCHOTT trademark will likely believe that Respondent's SHOT INTERNATIONAL goods emanate from or are sponsored by or somehow associated or connected with Petitioner. Consequently, such use by Respondent, if any, misrepresents the source of Respondent's goods and consumers are likely to be confused, deceived or misled into the mistaken belief that Respondent's goods emanate from or are sponsored, affiliated or somehow related to Petitioner when in fact they are not.

15. Respondent's mark SHOT INTERNATIONAL will thus damage Petitioner within the meaning of section 2 (d) of the Trademark Act of 1946, 15 U.S.C. Sections 1052 (d).

**THIRD GROUND FOR CANCELLATION**

16. Petitioner repeats and realleges paragraphs 1 through 10 and 14 as though fully set forth herein.

17. Any use of the SHOT INTERNATIONAL mark by Respondent has been deliberate with Respondent seeking to pass off its goods as those of Petitioner.

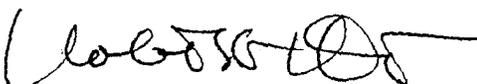
18. Respondent's mark SHOT INTERNATIONAL, if in use, thus misrepresents the source of Respondent's goods and will thus damage Opposer.

WHEREFORE, Petitioner believes that it will be damaged by the continuance of said registration and prays that it be canceled.

The filing fee of this cancellation proceeding in the amount of \$600.00 is enclosed.

Respectfully submitted,  
COOPER & DUNHAM LLP

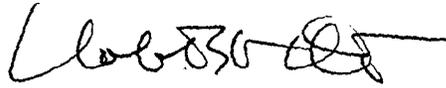
Dated : New York, N.Y.  
February 14, 2002

By:   
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(212) 278-0400

CERTIFICATE OF SERVICE

I hereby certify that the original and two copies of the foregoing Petition for Cancellation were served upon the Commissioner of Patents and Trademarks by first class mail, postage prepaid, this 14th day of February, 2002 in an envelope addressed as follows:

Hon. Commissioner of Patents and Trademarks,  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3515



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Robert B.G. Horowitz

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