

Flaw

BIAN.01T

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

Bianca of Nevada, Inc.,)	Cancellation No. _____
)	
Petitioner,)	
)	
v.)	
)	Reg. No. 1,046,870
M-C Shoe Company, Inc.,)	Reg. Date: August 24, 1976
)	Class(es): 025
Respondent.)	
_____)	

U.S. Patent & TMOfc/TM Mail Rcpt. Dt. #57

09-11-2002

PETITION FOR CANCELLATION

Bianca of Nevada, Inc., a corporation organized under the laws of the State of Nevada, having a place of business at 3485 W. Harmon Avenue, Suite 125, Las Vegas, Nevada, believes that it is or will be damaged by Registration No. 1,046,870 and hereby petitions to cancel same.

Description of Respondent's Registration: Filed on June 10, 1975, for the mark "FOOTWORKS (and Design)", registered on the Principal Register, in Class(es) 025 for *WOMEN'S SHOES*; claiming first use on May 14, 1975.

As grounds of this Petition, it is alleged that:

1. Petitioner, since at least as early as July 1, 1997, has been, and is now using the mark "FOOTWORKS" in connection with

Petition For Cancellation
Reg'n No. : 1,046,870
Issued : August 24, 1976

RETAIL SALE OF SHOES AND RELATED LEATHER GOODS. Said use has been valid and continuous since said date of first use and has not been abandoned.

2. Petitioner has sought registration of "FOOTWORKS" under Section 1(a), in International Class 042, obtaining Serial Number 78/081,082 and Filing Date August 24, 2001, therefor.

3. In an Office Action dated March 20, 2002, the Examining Attorney in charge of application Serial Number 78/081,082 has refused registration under Section 2(d) of the Trademark Act, alleging a likelihood of confusion with Respondent's mark (Registration No. 1,046,870).

4. On information and belief, Respondent has abandoned said registered mark by discontinuing use of said mark for a period of more than three consecutive years, and has no intent to resume said use. Petitioner is likely to be damaged by continuance of said registration in that Petitioner's continued and legal use of said mark, and Petitioner's efforts to register same, will be impaired by the continuing registration of said abandoned mark of Respondent.

WHEREFORE, Petitioner prays that Registration No. 1,046,870 be cancelled and that this Petition For Cancellation be sustained in favor of Petitioner.

Petition For Cancellation
Reg'n No. : 1,046,870
Issued : August 24, 1976

A duplicate copy of this Petition For Cancellation and the fee required in §2.6(a) are enclosed herewith.

Respectfully submitted,

KENEHAN & LAMBERTSEN, LTD.

Dated: 11 Sept 2002

By:


John C. Lambertsen
1771 E. Flamingo Road
Suite 211B
Las Vegas, NV 89119-5154
(702) 796-3476
jlambertsen@kenehan.com

Attorney for Petitioner

ACT101T.CANPET



Trademarks • Patents • Copyrights

September 11, 2002

U.S. Patent & TMO/c/TM Mail Rcpt. Dt. #57



09-11-2002

VIA EXPRESS MAIL

Box TTAB

FEE

Assistant Commissioner for Trademarks

2900 Crystal Drive

Arlington, VA 22202-3513

Re: **Petition For Cancellation**

Petitioner: Bianca of Nevada, Inc.

Registration No.: 1,046,870; Issued; August 24, 1976

Registrant/Respondent: M-C Shoe Company, Inc.

Our Reference: BIAN.01T

02 SEP 20 AM 12: 29
TRADemark TRIAL AND
APPEAL BOARD

Dear Sir:

Enclosed for filing are the petition papers of Bianca of Nevada, Inc. for cancellation of U. S. Trademark Registration No. 1,046,870 including the following:

1. A PETITION FOR CANCELATION document (in duplicate);
2. A check in the amount of \$300.00 for filing fee; and
3. A stamped, self-addressed postcard to acknowledge receipt.

Respectfully submitted,

John C. Lambertsen

Enclosures

BIAN.01T.CANPETLTR