



TAB

10-31-2002

UNITED STATES
OFFICE

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

JEMARK

Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 28, 2002

M-C SHOE COMPANY, INC.
920 SOUTH TAYLOR
ST. LOUIS, MO 63110

Cancellation No. 92041051
Reg. No. 1046870

JOHN C. LAMBORTSON
KENEHAN & LAMBERTSON, LTD.
1771 E. FLAMINGO ROAD, SUITE 211B
LAS VEGAS, NV 89119-5154

BIANCA OF NEVADA, INC

M-C SHOE COMPANY, INC.

02 NOV 13 AM 9:30

TRADEMARK TRIAL AND APPEAL BOARD

Shelley Jamison, Legal Assistant

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof. (See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as

well as the *Trademark Trial and Appeal Board Manual of Procedure (TBMP)*, is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

Discovery period to open: **October 18, 2002**

Discovery period to close: **April 16, 2003**

30-day testimony period for party
in position of plaintiff to close: **July 15, 2003**

30-day testimony period for party
in position of defendant to close: **September 13, 2003**

15-day rebuttal testimony period
for plaintiff to close: **October 28, 2003**

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "*Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board*," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

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 & TMO/TM Mail Rept. Dt. #67

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.

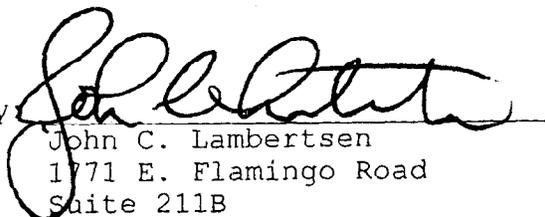
Respectfully submitted,

KENEHAN & LAMBERTSEN, LTD.

Dated:

11 Sept 2002

By



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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

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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