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

In the Matter of Registration No. 1,387,856  
Of the mark: THE EXTERIOR DECORATORS  
Registrant: M. FORTUNOFF OF WESTBURY CORP.



11-01-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #70

-----X	:	
Munder Skiles, LLC	:	
	:	
Petitioner,	:	Cancellation No.:
	:	
v.	:	
	:	
M. Fortunoff of Westbury Corp.,	:	
	:	
Respondent.	:	
-----X	:	

TRADEMARK TRIAL AND  
APPEAL BOARD  
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**PETITION TO CANCEL**

Munder Skiles LLC (hereinafter "Petitioner"), through its attorneys, believing it is and will continue to be damaged by the registration of the trademark THE EXTERIOR DECORATORS of Registration No. 1,387,856, registered to M. Fortunoff of Westbury Corp., (hereinafter "Respondent") on March 25, 1986, alleges on knowledge as to Petitioner and otherwise on information and belief, as follows:

1. Petitioner is a corporation organized in accordance with the laws of New York with a principal place of business at 799 Madison Avenue, New York, New York 10021.
2. Respondent is a corporation, organized under the laws of New York, located and doing business at 1300 Old Country Road, Westbury, New York 11590.
3. Petitioner is the owner of the trademark EXTERIOR DECORATOR for consulting and advisory services in the nature of on site consulting and preparing of designs for custom furnishings and commercially available furnishings.

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4. Petitioner filed a trademark application with the United States Patent and Trademark Office ("USPTO") on the Principal Register for the mark EXTERIOR DECORATOR for consulting and advisory services in the nature of on site consulting and preparing of designs for custom furnishings and commercially available furnishings. A copy of the application is annexed as Exhibit "A" and made a part hereof.

5. Respondent is the record owner of the following trademark registration on the Principal Register of the USPTO:

<b>MARK</b>	<b>GOODS</b>	<b>REGISTRATION NO.</b>	<b>REGISTRATION DATE</b>
THE EXTERIOR DECORATORS	Retail store services in the field of outdoor home furnishings in Class 42	1,387,856	March 25, 1986

6. Petitioner's application will be refused registration on the basis of said Registration No. 1,387,856 on the ground that Petitioner's mark so resembles the mark shown in the said Registration as to be likely to cause confusion, or to cause mistake or to deceive. As such, Petitioner will be damaged in that it will not be permitted to register its mark.

7. Respondent is not now using the mark THE EXTERIOR DECORATORS as a trademark for retail store services in the field of outdoor home furnishings in Class 42. Respondent has discontinued bona fide use of the mark THE EXTERIOR DECORATORS in the ordinary course of trade for retail store services in the field of outdoor home furnishings in Class 42, with no intent to resume such use thereof.

8. Respondent has abandoned the mark THE EXTERIOR DECORATORS for retail store services in the field of outdoor home furnishings in Class 42.

9. Petitioner is or will be damaged by the continued registration of the mark shown in Registration No. 1,387,856 since, by virtue of such registration, doubts would be raised as to the exclusive right of Petitioner to use its mark.

10. Petitioner is or will be damaged by the continued existence of Respondent's Registration No. 1,387,856 because Petitioner's ability to legally use and register its mark will be impaired by the continued registration of Respondent's mark.

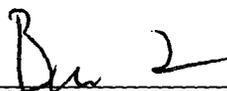
11. Based on the foregoing, the continued existence of Registration No. 1,387,856 on the records of the USPTO is causing or will cause damage to Petitioner.

WHEREFORE, Petitioner prays that the instant Petition for Cancellation be granted and that the Trademark Trial and Appeal Board cancel Registration No. 1,387,856.

Dated: October 30, 2002  
New York, New York

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

By:  \_\_\_\_\_

Barbara H. Loewenthal  
Attorneys for Petitioner  
270 Madison Avenue  
New York, NY 10016-0601  
(212) 684-3900

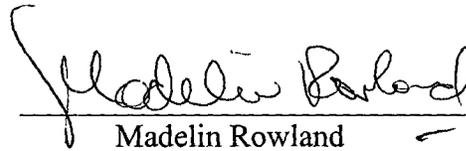
Enclosures:

1. Check in the amount of \$300.00
2. Prepaid, self-addressed postcard

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage prepaid envelope addressed to: Assistant Commissioner for Trademarks, Box TTAB - Fee, 2900 Crystal Drive, Arlington, VA 22202-3513, on October 30, 2002.

Dated: New York, New York  
October 30, 2002

  
Madelin Rowland

**GOTTLIEB, RACKMAN & REISMAN, P.C.**

COUNSELORS AT LAW

PATENTS • TRADEMARKS • COPYRIGHTS • INTELLECTUAL PROPERTY

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OF COUNSEL  
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NORBERT P. HOLLER

\*MEMBER OF THE BAR  
OF ARGENTINA ONLY

October 28, 2002

Assistant Commissioner for Trademarks  
Box New APP Fee  
2900 Crystal Drive  
Arlington, VA 22202-3513



11-01-2002

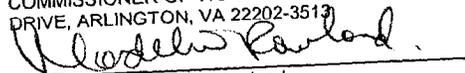
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

Express Mail Certificate

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DATE OF DEPOSIT 10/28/02

I HEREBY CERTIFY THAT THIS PAPER OR  
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UNDER 37 CFR 1.10 ON THE DATE INDICATED  
ABOVE AND IS ADDRESSED TO: ASSISTANT  
COMMISSIONER OF TRADEMARKS, 2900 CRYSTAL  
DRIVE, ARLINGTON, VA 22202-3513

  
Signature: Madelin Rowland

Re: Trademark/Service Mark Application

S I R:

We enclose the following Trademark/Service Mark application:  
Applicant: Munder Skiles, LLC (formerly Munder Skiles, Inc.)  
Mark: EXTERIOR DECORATOR

We also enclose:

- (x) 1. Filing fee in the amount of \$325.00 for each class of goods or services in the application;
- (x) 2. Application and formal drawing;
- (x) 3. Return postcard;
- (x) 4. Express Mail Certificate.

The Commissioner is authorized to charge any additional fees which may be required, or to credit any overpayment, to our Deposit Account No. 07-1730.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.



Barbara H. Loewenthal

BHL:mr  
Enclosures

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Mark: EXTERIOR DECORATOR**  
**Int'l Class: 35**

TO THE ASSISTANT SECRETARY AND  
COMMISSIONER OF PATENTS AND TRADEMARKS:

Applicant, **Munder Skiles, LLC** (formerly Munder Skiles, Inc.), a corporation organized and existing under the laws of the State of New York with its principal place of business at: 799 Madison Avenue, New York, New York 10021, hereby requests registration of the above-referenced mark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended) for the following goods/services:

**(Class 35) Consulting and advisory services in the nature of on site consulting and preparing of designs for custom furnishings and commercially available furnishings.**

**Basis for Application §1(b) Intent-to-Use**

Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified services. (15 U.S.C. §1051(b), as amended.)

Applicant intends to use the mark by applying the mark to the written material, brochures or pamphlets, signs, press releases, displays or other suitable media relating to the services.

**POWER OF ATTORNEY**

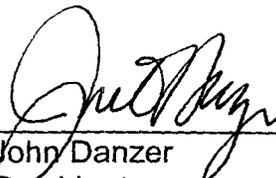
Applicant appoints George Gottlieb, Michael I. Rackman, James Reisman, Barry A. Cooper, David S. Kashman, Allen I. Rubenstein, Jeffrey M. Kaden, Amy B. Goldsmith, Tiberiu Weisz, Maria A. Savio, Donna L. Mirman, Barbara H. Loewenthal, Jody I. Hawke, Marc P. Misthal, Frank D. Decolvenaere, Raymond B. Churchill, Jr., Richard

Schurin, and Steven Stern, of the Law Offices of GOTTLIEB, RACKMAN & REISMAN, P.C., 270 Madison Avenue, New York, New York 10016-0601, its attorneys, to prosecute this application to register, with full power of substitution and revocation, to transact all business in the U.S. Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

DECLARATION

The undersigned declares that he/she is properly authorized to execute this application and to make this declaration on behalf of Applicant; that he/she believes Applicant to be the owner of the mark sought to be registered; that to the best of his/her knowledge and belief, no other person, firm, corporation or association has the right to use the mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

Declared at \_\_\_\_\_ this 22 day of October, 2002.

By:   
Name: John Danzer  
Title: President

Applicant : **MUNDER SKILES LLC**  
Applicant's Address: 799 Madison Avenue, New York, New York 10021  
Intent to use : YES  
Goods/Services : (Class 35) Consulting and advisory services in the nature of on site consulting and preparing of designs for custom furnishings and commercially available furnishings.  
REMARKS: : Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-referenced goods. 15 U.S.C. Section 1051(b) as amended.

## **EXTERIOR DECORATOR**

ATTORNEYS : GOTTlieb, RACKMAN & REISMAN, P.C.  
ADDRESS : 270 Madison Avenue  
New York, New York 10016-0601  
(212) 684-3900

Date 10/28/02 Atty BHL:mr

**Re: Applicant: Munder Skiles, LLC (formerly Munder Skiles Inc)**

**Mark: EXTERIOR DECORATOR**

Client/Matter (Docket) No. 3993/13 Case No. \_\_\_\_\_

S/N \_\_\_\_\_ R/N \_\_\_\_\_ P/N \_\_\_\_\_

Title or Description of Enclosures Application and formal drawing;

Filing fee in the amount of \$325 (per class);

EM Certificate No. EL803250769US dated 10/28/02.

The stamp of the Patent Office mailroom hereon indicates receipt of the identified document(s) on the date of such stamp.

**Gottlieb, Rackman & Reisman, P.C.**

1955

**MUNDER-SKILES, INC.**  
799 MADISON AVE.  
NEW YORK, NEW YORK 10021

**NORTH FORK BANK**  
NEW YORK, NY 10011  
50-791-214

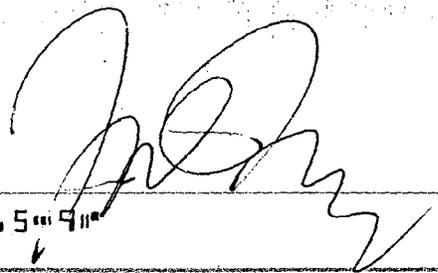
10/22/02

PAY TO THE ORDER OF Commissioner of Patents & Trademarks

\$ **\*\*325.00**

Three Hundred Twenty-Five and 00/100\*\*\*\*\* DOLLARS

Gottlieb Rackman & Reisman, P.C.  
270 Madison Avenue  
8th Floor  
New York NY 10016



MEMO Government Filing Fee Ref. Nos. 3993/013

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**MUNDER-SKILES, INC.**

Commissioner of Patents & Trademarks  
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Details on back. Security Features included.