

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

Kaydon Acquisition XI, Inc., )  
)  
Petitioner, )  
)  
v. )  
)  
LA-CO Industries, Inc., )  
)  
Registrant. )  
\_\_\_\_\_ )



02-13-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

Cancellation No. \_\_\_\_\_

Box TTAB--Fee  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

PETITION FOR CANCELLATION

Kaydon Acquisition XI, Inc., a Delaware corporation, having a place of business at 315 Eisenhower Parkway, Ann Arbor, Michigan 48108, believes that it is damaged by Registration No. 2,424,087, and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that :

1. Registrant, LA-CO Industries, Inc. (hereinafter referred to as "Registrant" or "LA-CO"), obtained Federal Registration 2,424,087 on "WATER BRITE" for soldering flux, which registration issued January 23, 2001, claiming first use on April 3, 2000, and first use in commerce on April 3, 2000.

2. Kaydon Acquisition XI, Inc., through its wholly owned subsidiary, Canfield Technologies, Inc., (hereinafter referred to as "Petitioner" or "Kaydon") is and has been engaged in the sale and marketing of soldering flux and other related soldering products

under the "AQUA-BRITE" trademark since long prior to the date of first use alleged by Registrant in its application for registration.

3. Kaydon adopted and has continuously used the "AQUA-BRITE" trademark in conjunction with soldering products since 1995.

4. Kaydon is the owner of pending Federal Trademark Application Serial No. 76/397,763 on "AQUA-BRITE" for soldering flux, which application was filed April 19, 2002, and claims first use on or before 1995, and first use in commerce on or before 1995 (hereinafter referred to as "Kaydon Application").

5. Kaydon uses the "AQUA-BRITE" mark by applying it to labels attached to containers for the goods, on advertising materials and in other ways customary in the trade.

6. Kaydon's use of the "AQUA-BRITE" mark throughout the United States has acquired for the mark, and for the products sold thereunder, a valuable reputation and goodwill.

7. Kaydon has expended a substantial amount of money, time and effort in promoting and popularizing the Kaydon mark so that the trade in general, and the purchasing public in particular, have come to know and recognize Kaydon's mark and products, and to know that the latter originate with Kaydon.

8. Kaydon is well and favorably known in the United States and elsewhere, and has built up extensive goodwill and a high reputation in connection with the products associated with Kaydon's "AQUA-BRITE" mark.

9. The United States Patent and Trademark Office has rejected the Kaydon Application, and refused to register the "AQUA-BRITE" mark to Kaydon on the grounds that the Kaydon mark is so similar to the LA-CO mark as to be likely to cause confusion, or to

cause mistake, such that Kaydon has standing to bring the present cancellation action. Home Juice Co. v. Runglin Cos., 231 U.S.P.Q. 897 (TTAB 1986).

10. Consequently, Kaydon is being damaged by the LA-CO registration, as Kaydon is unable to obtain allowance of the Kaydon Application, and further raises doubts as to the rights of Kaydon to continue to use the "AQUA-BRITE" mark in connection with its goods.

11. Kaydon clearly has superior and paramount trademark rights as compared with those of LA-CO, since Kaydon has used the "AQUA-BRITE" mark in commerce substantially prior to any date claimed by or available to LA-CO.

12. Kaydon further asserts that LA-CO has abandoned its rights to the "WATER BRITE" trademark, and its associated registration thereon. Kaydon asserts that LA-CO no longer uses the "WATER BRITE" mark, and does not intend to do so in the future.

WHEREFORE, Kaydon prays that the LA-CO Registration 2,424,087 be cancelled, and that this petition be sustained in favor of Kaydon.

Respectfully submitted for Petitioner,

KAYDON ACQUISITION XI, INC.

2/13/03  
Date

  
\_\_\_\_\_  
Carl S. Clark  
Registration No. 28 288  
695 Kenmoor S.E.  
P.O. Box 2567  
Grand Rapids, Michigan 49501  
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CSC/jkrp

02-13-2003

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #01

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Atty. Dkt. No. KAY01 L-302  
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TRANSMITTAL LETTER

Enclosed please find two copies of a Petition For Cancellation to be filed with the Trademark Trial and Appeal Board, and served on Registrant to initiate the above-entitled action.

A check for the cancellation fee in the amount of three hundred dollars (\$300.00) is also enclosed. Please charge any additional fees, or credit overpayment, to our Deposit Account No. 16-2463. A duplicate copy of this sheet is enclosed.

Kindly date stamp and return the enclosed postcard to acknowledge receipt of this request.

Respectfully submitted for Petitioner,  
KAYDON ACQUISITION XI, INC.

2/13/03  
Date

  
Carl S. Clark  
Registration No. 28 288  
695 Kenmoor S.E.  
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EXPRESS MAIL CERTIFICATION UNDER 37 CFR 1.10

The undersigned hereby certifies that this correspondence and all identified enclosures and attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on February 13, 2003, and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, identified by the "Express Mail" Mailing Label No. EV019720171US.

  
Julie Raleigh Porter

CSC/jkrp  
Enclosures