

TTAB

Attorney Docket No.: 236575US33

BOX TTAB FEE

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

O I P E J C I P A
APR 25 2003
PATENT & TRADEMARK OFFICE

MITSUBISHI MOTORS CORPORATION,

Petitioner,

v.

WALTER TRUCK CORPORATION,

Respondent.

04-25-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Cancellation No.: _____
Registration No. 226,700

042,020

Honorable Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

PETITION FOR CANCELLATION

MITSUBISHI MOTORS CORPORATION, a corporation under the laws of Japan, located at 5-33-8, Shiba, Minato-ku, Tokyo, 108-8410, Japan, believes that it is or will be damaged by Registration No. 226,700 issued on the Principal Register on April 19, 1927 for the mark SNOW-FIGHTER in International Class 12 for motor trucks. Petitioner hereby petitions to cancel the registration.

As grounds for this petition, Petitioner alleges:

1. To the best of Petitioner's knowledge, Walter Truck Corporation is indicated as the current owner of trademark Registration No. 226,700 for the mark SNOW-FIGHTER for motor trucks, and its address is P.O. Box 279, Northeastern Industrial Park, Guilderland Center, New York 12085.

05/22/2003 SEDWARDS 00000026 226700

01 FC:6401

300.00 DP

2. Upon information and belief, Petitioner believes that the mark identified above and the business of Walter Truck Corporation has been acquired by Kovatch Mobile Equipment, and upon further information and belief, the corporate headquarters are located at One Industrial Complex, Nesquehoning, Pennsylvania 18240-1499.

3. Upon information and belief, Petitioner believes that the subject mark has been abandoned by Respondent and any successor(s) in interest as a result of cessation of use of the mark coupled with an intention not to resume use of the mark.

4. Alternatively, upon information and belief, Petitioner believes that the mark identified above has been abandoned as a result of non-use of the mark for a period of three consecutive years prior to the date of this Petition.

5. Petitioner filed an application to register FIGHTER in Japan on March 13, 2003 in connection with trucks and/or related goods. Petitioner intends to file an application in the United States to register FIGHTER in which it will claim priority based on the Japanese application.

6. Petitioner believes that that the registration identified above, unless canceled, will be a cloud on Petitioner's ability and right to use and register the mark FIGHTER in interstate commerce in connection with trucks and/or related goods.

7. Petitioner therefore believes that continued registration of Respondent's Registration No. 226,700 threatens great irreparable damage to Petitioner's interest in, and rights to, the mark FIGHTER and should be canceled to remove an unlawful impediment to Petitioner's right to use and register its trademark without risk of legal harassment or interference posed by the registration sought to be canceled.

WHEREFORE, Petitioner believes that it is being and still continues to be damaged by the continued registration of the SNOW-FIGHTER mark as aforesaid, and prays that this Petition for Cancellation be granted and that Registration No. 226,700 be canceled.

Petitioner has appointed Jeffrey H. Kaufman and Colette A. Durst-Barkey, members of the bar of the Commonwealth of Virginia, to prosecute this cancellation proceeding and transact all business in and before the United States Patent and Trademark Office in connection herewith.

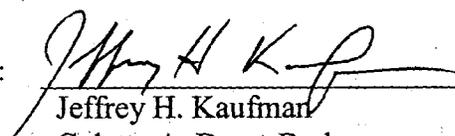
Please address all correspondence to Jeffrey H. Kaufman, Esquire, Oblon, Spivak, McClelland, Maier & Neustadt, P.C., 1940 Duke Street, Alexandria, Virginia 22314.

The filing fee for this Petition to Cancel in the amount of \$300 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

MITSUBISHI MOTORS CORPORATION

By:


Jeffrey H. Kaufman
Colette A. Durst-Barkey
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: tmdocket@oblon.com

Date: April 25, 2003

JHK/CDB/ssb (I:\VATTY\JHK\1394-236575US-PET.DOC)