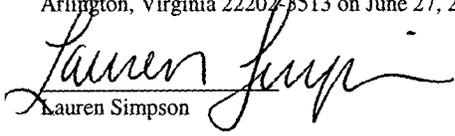


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service by "Express Mail Post Office to Addressee" service in an envelope addressed to Assistant Commissioner for Trademarks, BOX TTAB -FEE, 2900 Crystal Drive Arlington, Virginia 22202-3513 on June 27, 2003

  
Lauren Simpson

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

**In the Matter of Registration No. 2624794  
Registration Issued on September 24, 2002**



06-27-2003

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #22

SASSY SCENTS, LLC  
Petitioner,

v.

SUH, MYUNG IN  
Registrant

Index No. \_\_\_\_\_

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 2202-3513

**PETITION FOR CANCELLATION**

RE: REGISTRATION NO. 2624794  
Mark: SASSY SENSE  
Petitioner: Sassy Scents, L.L.C.  
Registration Issued: September 24, 2002

Dear Sir:

Introduction

Petitioner Sassy Scents, L.L.C. ("Petitioner" or "Sassy Scents"), a limited liability company organized under the laws of the State of Delaware, located at 102 Penn Road, Scarsdale, New York 10583, contends that it is being damaged by Registration No. 2624794 for the mark

SASSY SENSE on denim jeans, pants, dresses, shirts, jackets and hats (the "SASSY SENSE

Mark"), which was registered on the Principal Register in class 25, claiming first use anywhere or in commerce since October 31, 2001. Accordingly, Petitioner hereby petitions to cancel same on the grounds set forth below. Petitioner files its Petition to Cancel in duplicate, and encloses a check in the amount of \$300 for the filing fee.

Grounds for cancellation are as follows:

Background

Sassy Scents

1. Sassy Scents is the owner of common law rights in trade name and trademarks comprised in whole or in part, of SASSY SCENTS on or in connection with sachets (the "SASSY SCENTS Mark") since at least April 3, 1997.

2. Petitioner seeks to register SASSY SCENTS for sachets, and is the owner of United States Patent and Trademark Office trademark application Serial No. 76436004, filed on July 31, 2002. The application was filed under the Lanham Act Section 1(b), and set forth that "the mark SASSY SCENTS for sachets was first used anywhere in a different form other than that sought to be registered on April 3, 1997, and in commerce in August 1997."

3. By non-final Office Action mailed December 30, 2002, the United States Patent and Trademark Office refused registration of the mark SASSY SCENTS for sachets under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), because Petitioner's mark SASSY SCENTS, when used on or in connection with sachets, so resembles the SASSY SENSE mark as to be likely to cause confusion, to cause mistake, or to deceive.

The Registrant

4. On information and belief, Myung In Suh, the registrant of the SASSY SENSE mark, is an individual residing at 28519 Cedar Bluff Drive, Rancho Palos Verdes, California 90275 (the "Registrant").

5. On information and belief, Myung In Suh first used the SASSY SENSE mark in October 2001 either jointly with, or exclusively through his wholly-owned company, D.M. Morris, Inc., a California corporation with a mailing address identified with the California Secretary of State at Law Office of Yun W. Suh, 3460 Wilshire Blvd., Ste. 1110, Los Angeles, California 90010 ("D.M. Morris"), now located at 610 West El Segundo #B, Los Angeles, California 90061, <http://www.popcornjeans.com>.

6. D.M. Morris is a "related company" to the Registrant, as that term is defined in Chapter 1200 of the Trademark Manual of Examining Procedure.

7. On information and belief, either both D.M. Morris and the Registrant, or the Registrant and not D.M. Morris, has always controlled, and continues to control, the nature and quality of the goods on or in connection with the SASSY SENSE mark.

8. On information and belief, use of the SASSY SENSE mark has never been used exclusively by the Registrant apart from use through, or together with, D.M. Morris.

9. On information and belief, Registrant never stated in the body of the application that the Registrant had adopted and is using the mark through its related company (or equivalent explanatory wording).

10. On information and belief, D.M. Morris is a manufacturer of denim jeans for women and children, and the SASSY SENSE mark is currently being used for this purpose.

11. On information and belief, D.M. Morris has never offered a men's clothing line, and do not currently offer a men's clothing line.

12. On information and belief, D.M. Morris has been using the SASSY SENSE mark on denim jeans for women and children, and distributing its products to small outlet stores for the past year, under the exclusive control of the Registrant.

Prior Adoption and Use of Confusingly Similar Mark

13. Sassy Scents has promoted and sold its goods in interstate commerce and intrastate commerce under the SASSY SCENTS marks since long prior to any use of the SASSY SENSE mark by said registrant, and continues to do so. As noted, Petitioner has used the SASSY SCENTS mark in commerce since April 1997 and Registrant has used the SASSY SENSE mark in commerce only since October 2001.

14. Sassy Scents' use of SASSY SCENTS has been valid and continuous since said date of first use and has not been abandoned.

15. Sassy Scents has expended substantial resources to advertise and promote the SASSY SCENTS mark, and the SASSY SCENTS mark is symbolic of extensive goodwill and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion.

16. If, as the Trademark Examining Attorney contends in the office action mailed in connection with trademark application Serial No. 76436004, the SASSY SENSE and SASSY SCENTS marks are confusingly similar, and use of the SASSY SENSE mark is likely to cause confusion, deception, and mistake among purchasers, then the registration of the SASSY SENSE mark should be cancelled because Sassy Scents has priority of use.

17. The SASSY SENSE mark so resembles the SASSY SCENTS mark, a mark or trade name previously used by Sassy Scents in the United States and not abandoned, as to be likely, when used on or in connection with the goods in the registration for the SASSY SENSE mark, to cause confusion, to cause mistake, or to deceive.

18. On information and belief, there was no bona fide use of the Registrant's mark in commerce for all of the goods in its registration for the SASSY SENSE mark prior to the filing of the application for its registration.

19. On information and belief, Registrant is not (and was not, at the time of the filing of its registration) the rightful owner of the registration for the SASSY SENSE mark, because

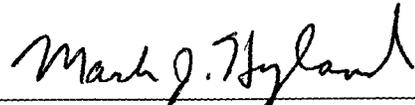
either the mark was first used by a related company not identified in its application, or because the mark was jointly owned by D.M. Morris and the Registrant.

WHEREFORE, Petitioner believes it would be damaged by said registration, and Petitioner prays that Registration No. 2624794 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

June 27, 2003

Respectfully submitted,

By:



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