

TTAB

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



08-01-2003

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

Malcolm & Co. LLC

Petitioner,

v.

Craddock-Terry, Inc.,

Applicant.

Cancellation No.:

Registration No.: 64,588

Date of Issue: August 13, 1907

Box TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

08-01-2003 18:01:32

PETITION FOR CANCELLATION

Dear Sir:

Malcolm & Co. LLC, a New York corporation, located and doing business at 1412 Broadway, Suite 2300, New York, New York 10018, believes that it will be damaged by Registration No. 64,588 and hereby Petitions to Cancel same.

A description of Registrant's Registration No. 64,588 follows: said registration was registered on the Principal Register, by Craddock-Terry Shoe Corp., on August 13, 1907 for the mark AUTOGRAPH, in class 25, for leather boots and shoes, claiming a first use in 1900.

As grounds of this Petition, it is alleged that:

1. Petitioner has filed Application No. 78/280,192, for AUTOGRAPH on or about

July 29, 2003.

08/13/2003 EPINA1 00000043 0064588

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20439.1

300.00 DP

2. Registration No. 64,588 was assigned to Craddock-Terry, Inc. whose last known address is 601 Twelfth Street, P.O. Box 10088, Lynchburg, Virginia 24506.

3. On information and belief, Craddock-Terry, Inc. has abandoned said mark in commerce within the meaning of 15 U.S.C. 1127.

4. Petitioner is likely to be damaged by continuance of said registration in that Petitioner's ability to register the mark of its pending trademark application, Serial No. 78/280,192, and Petitioner's right to continued and legal use of its mark will be impaired by the continued registration of said Registration No. 64,588.

WHEREFORE, Petitioner prays that Registration No. 64,588, be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

**LAST KNOWN ADDRESS FOR SERVICE**

On information and belief, the last known owner of the mark, Craddock-Terry, Inc. filed a voluntary petition in bankruptcy under Chapter 11 on August 26, 1997. Craddock-Terry, Inc. continued to operate its business as Debtor-in-Possession until the bankruptcy was closed on May 7, 2003; the address for Craddock-Terry, Inc. was listed as:

601 Twelfth Street  
P. O. Box 10088  
Lynchburg, Virginia 24506

Its attorney was listed as :

W. Alan Smith Jr., Esq.  
P. O. Box 957  
Lynchburg, Virginia 24505  
Phone: (434) 528-1058

Attached, also, as Exhibit A hereto is a document entitled "Bankruptcy Full Case Summary" for Craddock-Terry, Inc. which lists the last known addresses for Craddock-Terry, Inc. and its attorney, W. Alan Smith. This information is enclosed for the purpose of most effectively serving the present owner of Registration No. 64,588 with the instant Petition for Cancellation.

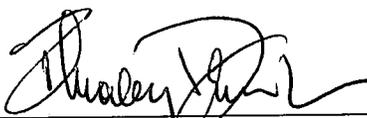
Petitioner hereby appoints FULWIDER PATTON LEE & UTECHT, LLP, a law firm including I. Morley Drucker, Esq., Michael S. Elkind, Esq.; both members of the bar of the State of California, to act as attorneys for Petitioner herein, with full power to prosecute said Petition, to transact all relevant business with the U.S. Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Petition for Cancellation.

Enclosed is our check in the amount of \$300.00 as the filing fee. The Commissioner is authorized to charge any additional fees to Deposit Account No. 06-2425.

Respectfully submitted,

MALCOLM & CO., LLC

Dated: July 29, 2003 By:



I. Morley Drucker  
Michael S. Elkind  
Attorneys for Petitioner  
FULWIDER PATTON LEE & UTECHT, LLP

IMD:gkm

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6060 Center Drive, Tenth Floor  
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CERTIFICATE OF MAILING UNDER 37C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Services with sufficient postage as First Class Mail in an envelope addressed to:

Box TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

Dated: 7/29/03

By: Gayle K. Makishi  
Gayle K. Makishi

## Bankruptcy Full Case Summary

6 97-02624 (Lynchburg)

### CRADDOCK-TERRY, INC.

Office: Lynchburg	County: Lynchburg
Judge: WILLIAM E. ANDERSON	
Trustee: DEBTOR-IN-POSSESSION	
<b>Case Information</b>	
Filed: 06/25/02 Chapter: 11 Reopened #: 1	Original filing date: 08/26/97 Original chapter: 11
Voluntary: Yes Case type: Corporation Assets: Yes	Business: Yes Joint: No Pro se: No
<b>Bar Dates and Case Status</b>	
Complaints bar date: Not Applicable	Claims bar date: 12/22/97
Status: Chapter 11 Confirmed Status date: 05/07/03	Disposition: Discharge not applicable  Discharged:
Closing date: 05/07/03	
<b>Parties</b>	
Debtor: CRADDOCK-TERRY, INC. SSN: - - EIN: 54-1454851 Atty: W. ALAN SMITH, JR.; LYNCHBURG (434) 528-1058	

<b>PACER Service Center</b>			
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07/09/2003 13:27:52			
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Description:	Case Summary	Case Number:	6 1997-02624
Billable Pages:	1	Cost:	0.07



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**Attorney Listing**  
**6 97-02624 (Lynchburg) Bankruptcy**

**CRADDOCK-TERRY, INC.**

	<b>TRUSTEE</b> <b>DEBTOR-IN-POSSESSION</b>
<b>ATTORNEY:</b> W. ALAN SMITH, JR. P. O. BOX 957 LYNCHBURG, VA 24505 (434) 528-1058	<b>DEBTOR:</b> CRADDOCK-TERRY, INC. 601 TWELFTH STREET, PO BOX 10088 LYNCHBURG, VA 24506  SSN: - - EIN: 54-1454851

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
07/09/2003 13:29:12			
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<b>Billable Pages:</b>	1	<b>Cost:</b>	0.07



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