

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

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DEBONAIR TRADING INTERNACIONAL LDA., :  
Petitioner, :  
vs. : Cancellation No.  
ISEHAN COMPANY LIMITED CORPORATION, :  
Respondent. :



03-05-2004

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

To: The Honorable Commissioner for Trademarks

MADAM:

AMENDED PETITION FOR CANCELLATION

In the matter of Registration No. 1,213,737 dated October 26, 1982, DEBONAIR TRADING INTERNACIONAL LDA., a corporation organized and existing under the laws of Portugal, located and doing business at Avenida do Infante 50 9000, Funchal, Madeira, Portugal, believes that it is and will be damaged by said registration and hereby petitions to cancel same.

As grounds therefor, it is alleged that:

1. Petitioner is the owner of the trademark SO. . ? KISS ME, and has applied to register said mark on the Principal Register of the United States Patent and Trademark Office for perfumes and perfumed body spray;

deodorants; eau de toilette; fragrance sachets; body lotion; shower gel and shimmer lotions in Class 3. The basis for the application is Section 1(b) of the Trademark Act, and it was filed on March 18, 2003 and assigned Application S.N. 78/227,511.

2. Registration of Petitioner's Application S.N. 78/227,511 was refused in an Office Action mailed on September 4, 2003 on the ground that the mark that is the subject of said Application is confusingly similar to the mark KISS ME that is the subject of the Registration herein sought to be cancelled.

3. The goods for which coverage is claimed in Respondent's Registration are lipsticks, rouges, lip creams, lip liners, cream compacts, foundation cream, foundation powders, make-up cake, eye shadow, eyebrow pencils, false eyelashes, mascara, manicuring enamels, perfumes, hand creams, washing creams, nourishing creams, cleansing creams, skin lotions, milky lotions and astringents in Class 3.

4. Upon information and belief, Respondent has never used the mark KISS ME in commerce in or with the United States for any goods apart from Mascara and Eyeliner.

5. On May 3, 1988 Respondent filed in the Office a combined Declaration under Sections 8 and 15 of the Trademark Act in connection with registration No. 1,213,737. Upon information and belief, said declaration willfully and falsely stated that the mark KISS ME was, as of May 3, 1988, still in use by Registrant on all of the goods described in the Registration herein sought to be cancelled.

6. Wherefore, Registration No.1,213,737 of the KISS ME mark was falsely and fraudulently maintained by Registrant in violation of 15 U.S.C. Sec.1064(3).

7. On October 3, 2002 Respondent filed in the Office a Combined Declaration under Sections 8 (10 year) and 9 of the Trademark Act. Upon information and belief, said Declaration willfully and falsely stated that the mark KISS ME was, as of October 3<sup>rd</sup>, 2002, still in use by Registrant on all of the goods described in the Registration herein sought to be cancelled.

8. Wherefore, Registration no. 1,213,737 of the mark KISS ME was falsely and fraudulently renewed by Registrant in violation of 15 U.S.C. Sec. 1064(3).

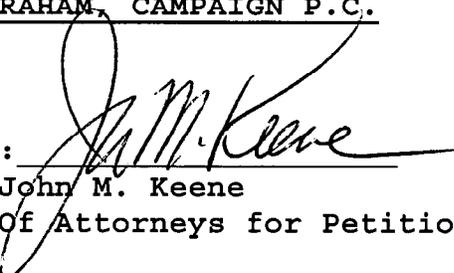
9. Petitioner is damaged by Respondent's aforesaid

Registration in that registration has been refused to its pending Application to register the mark SO. . ? KISS ME under Section 2(d) of the Trademark Act.

WHEREFORE, Petitioner respectfully requests that the Board enter an Order, pursuant to 15 U.S.C. 1064(3), canceling Registration No. 1, 213, 737 in its entirety, and for all such other or further relief to Petitioner as the Board, in the sound exercise of its discretion, deems to be necessary, just and appropriate in the premises.

Respectfully submitted,

GRAHAM, CAMPAIGN P.C.

By: 

John M. Keene  
Of Attorneys for Petitioner

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Dated: New York, New York  
March 3, 2004

CERTIFICATE OF FILING

I hereby certify that the foregoing AMENDED PETITION FOR CANCELLATION was filed by placing the same in an envelope, sufficient First Class postage affixed, addressed to Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, and by depositing same with the U.S. Postal Service, on this 3rd day of March, 2004.



A handwritten signature in cursive script, appearing to read "J. Keane", is written over a horizontal line.

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March 3, 2004

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

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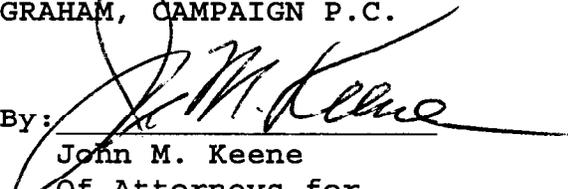
Attention: Trademark Trial and Appeal Board

Re: Petition for Cancellation vs.  
Registration No. 1,213,737  
Filed on March 1, 2004

Dear Sirs and Ladies:

I enclose herewith an AMENDED PETITION FOR CANCELLATION in the matter of DEBONAIR TRADING INTERNACIONAL LDA vs. ISEHAN COMPANY LIMITED. The original Petition, a marked copy of which also is enclosed, was filed on March 1, 2004. The only change is in the first line of the Petition, where Registration No. 1,956,660 is deleted, and Registration No. 1,213,737 is inserted in its place. Accordingly, please destroy the March 1 Petition and file the March 3 Petition in its place. Thank you, and please accept my apology for any inconvenience that this error may cause.

Respectfully submitted,  
GRAHAM, CAMPAIGN P.C.

By: 

John M. Keene  
Of Attorneys for  
Petitioner

JMK/jmk