



TRADEMARK

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

In the matter of Trademark Registration No. 2,369,068
Issued July 18, 2000
For the mark: THUNDER GOD

TTAB

Coamix Inc.)
)
Petitioner,)
)
v.)
)
Thor Four, LLC)
)
Respondent.)
_____)

Cancellation No. _____

PETITION FOR CANCELLATION

Petitioner, Coamix Inc. (hereinafter "Coamix"), a corporation of Japan having its principal place of business at 2-6-10 Kichijoujiminami-cho, Musashino-shi Tokyo 180-0003, Japan, believes that it is or will be damaged by registration no. 2,369,068 and hereby petitions to cancel said mark.

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As grounds for this petition, it is alleged that:

1) The aforesaid registration issued on July 18, 2000 for the mark THUNDER GOD in class 41 identifying "entertainment services, namely, an animated television series" as the services, and lists Thor Four, LLC (hereinafter "Respondent") as the registrant.

2) On information and belief, Respondent has not made sales of the subject services identified by the THUNDER GOD mark for at least the three consecutive years preceding the filing date of this Petition. Further, on information and belief Respondent has not advertised the subject services for at least the three consecutive years preceding the filing date of this Petition. Respondent has thus abandoned the THUNDER GOD mark for "entertainment services, namely, an animated television series" with no apparent intent to resume use.

07-15-2004

3) Petitioner is likely to be damaged by maintenance of said registration on the Principal Register in that Petitioner since, July 4, 2002, has continuously used the mark RAIJIN COMICS on printed publications, namely, a series of comic books, magazines and periodicals, all featuring comics, in class 16.

4) Petitioner filed an application for the mark RAIJIN COMICS, Application No. 76/412,370, for the following goods, as amended: printed publications, namely, a series of comic books, magazines and periodicals, all featuring comics, in class 16. Petitioner's application has been refused registration under Section 2(d) in view of registration no. 2,369,068 on the alleged basis that a possible English translation of Petitioner's mark is THUNDER GOD. A final refusal issued January 21, 2004.

5) Petitioner has contacted Respondent's attorney but, based on his response to Petitioner's attorney, Respondent's attorney has been unable to contact Respondent.

6) In the Statement of Use filed by Respondent on August 3, 1999, Respondent stated the "materials are in use in commerce". The Statement of Use did not recite use of the mark in commerce.

7) In the Statement of Use, the Respondent stated "the accompanying specimens bearing the artwork and the mark are part of a portfolio of artwork, etc. that is sent to parties interested in the entertainment services. The business card enclosed herein accompanies that portfolio". The specimens of use do not show the mark was used in commerce in connection with the services.

8) The specimen consisted of artwork showing a character named "thunder god". Respondent did not submit any other specimens or materials showing the mark was used to identify a series.

9) In describing Respondent's intended manner of use in the application, Respondent indicated the mark would be "used as title to promote the services".

10) Petitioner's use of its mark will be impaired by the continued registration of Respondent's abandoned mark. Further, Petitioner will be damaged by the continued registration of a mark that fails to function as a mark.

11) On information and belief, through Respondent's failure to use the mark in commerce, Respondent has abandoned the THUNDER GOD mark of registration no. 2,3691,068.

WHEREFORE, Petitioner prays that registration no. 2,369,068 be cancelled and that this petition be sustained.

A duplicate copy of this Petition for Cancellation and the required filing fee are submitted herewith. Although it is believed no fees are due, please debit or credit any fees to Deposit Account No. 15-0461.

Coamix Inc.

Date: _____

7/13/04



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