

**UNITED STATES PATENT AND TRADEMARK
OFFICE**

Trademark Trial and Appeal Board

2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: July 22, 2004

Thor Four, LLC.
11661 SAN VICENTE BLVD; STE. 500
LOS ANGELES, CA 90049

Cancellation No. 92043524
Reg. No. 2369068

WILLIAM P. BERRIDGE
OLIFF & BERRIDGE
277 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

COAMIX INC.

TTAB

V.

Thor Four, LLC.

George Woods, Legal Assistant:

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the



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Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at www.uspto.gov.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open:	August 11, 2004
Discovery period to close:	February 07, 2005
30-day testimony period for party in position of plaintiff to close:	May 08, 2005
30-day testimony period for party in position of defendant to close:	July 07, 2005
15-day rebuttal testimony period for plaintiff to close:	August 21, 2005

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.



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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Attorneys for Petitioner

AN EQUAL OPPORTUNITY EMPLOYER

92043524

THOR FOUR, LLC.
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LOS ANGELES, CA 90049

*Not at this address!
contact at*