

ESTTA Tracking number: **ESTTA38524**

Filing date: **07/13/2005**

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

<b>Proceeding</b>	92044040
<b>Party</b>	Defendant BRUNEL, JEAN LUC BRUNEL, JEAN LUC 846 LINCOLN ROAD THIRD FLOOR MIAMI BEACH, FL 33139
<b>Correspondence Address</b>	H. JOHN RIZVI GOLD & RIZVI, P.A. 600 N. PINE ISLAND ROAD, SUITE 450 PLANTATION, FL 33324-1311
<b>Submission</b>	Answer
<b>Filer's Name</b>	H. John Rizvi
<b>Filer's e-mail</b>	JohnRizvi@IdeaAttorneys.com, Info@IdeaAttorneys.com
<b>Signature</b>	/H. John Rizvi/
<b>Date</b>	07/13/2005
<b>Attachments</b>	Answer to Pet, Scan.PDF ( 4 pages )

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

KARIN MODELS,	)	
S.A.R.L.	)	
	)	
Petitioner,	)	
	)	Cancellation No.: <b>92044040</b>
v.	)	Registration Nos.: 2114051 & 2115957
	)	Marks: KARIN (words only)
	)	KARIN MODELS (and design)
Brunel, Jean Luc	)	International Class: 035
	)	
Registrant.	)	

**ANSWER TO PETITION FOR CANCELLATION**

Respondent, JEAN LUC BRUNEL, answers the Petition to Cancel Registration Numbers 2,114,051 and 2,115,957 in the above-captioned matter as follows. Each paragraph number below corresponds to an allegation of the Petition to Cancel with the same corresponding paragraph number.

1. Admitted as to the filing of Section 8 & 15 Declarations but without sufficient information to admit or deny the remaining allegations of paragraph 1, and therefore, denied.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Without sufficient information to admit or deny, and therefore, denied.
7. Without sufficient information to admit or deny, and therefore, denied.

8. Without sufficient information to admit or deny, and therefore, denied.
9. Without sufficient information to admit or deny, and therefore, denied.
10. Without sufficient information to admit or deny, and therefore, denied.
11. Without sufficient information to admit or deny, and therefore, denied.
12. Without sufficient information to admit or deny, and therefore, denied.
13. Denied.
14. Denied.
15. Denied.

#### **AFFIRMATIVE DEFENSES**

Petitioner fails to state a claim upon which relief can be granted as the filing of a Petition for Cancellation is improper under the circumstances. The marks associated with Registration Numbers 2,114,051 and 2,115,957 have been in use for over five years, Section 8 & 15 Declarations have been duly filed, and the marks, by Petitioner's own admission, are incontestable as a matter of law.

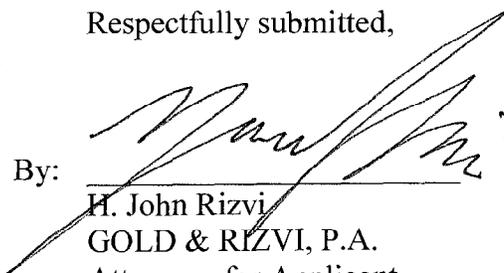
A Petition to Cancel an incontestable mark under 37 C.F.R. 2.111 and under 15 U.S.C. 1064 must be denied unless it meets one of a very narrow list of criteria, namely, that the mark has become generic for the goods; the mark was abandoned; the registration was obtained fraudulently; or the mark is being used (with the mark owner's permission) to misrepresent the origin of the goods.

Of the above-identified grounds for canceling an incontestable mark, Petitioner's strained allegations of fraudulently filed Section 8 & 15 Declarations, even if taken to be

true, are inadequate as a matter of law to constitute grounds for cancellation as they do not relate to the registration being obtained fraudulently. Furthermore, Petitioner has not set forth any allegations showing fraudulent intent nor set forth any facts, whatsoever, that if taken to be true, would provide grounds for inferring fraudulent intent in obtaining the registrations at issue. Allegations of fraud require more than a short and plain statement showing that the pleader is entitled to relief, fraud must be pleaded with particularity.

WHEREFORE, it is respectfully requested that the Petition for Cancellation be dismissed with prejudice, and judgment be entered in favor of the Respondent.

Respectfully submitted,

By: 

H. John Rizvi  
GOLD & RIZVI, P.A.  
Attorneys for Applicant  
600 N. Pine Island Road  
Suite 450  
Plantation, Florida 33324-1311  
(954) 583-9600

Date: July 13, 2005  
Atty. Docket: 1225.0100

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer to Petition to Cancel Registration Numbers 2,114,051 and 2,115,957 has been sent to Steven E. Eisenberg, Esq. and Erica W. Stump, counsel for Petitioner, via First Class Mail, postage pre-paid, to:

Feldman Gale, P.A.  
201 South Biscayne Boulevard  
Miami Center- Suite 1920  
Miami, FL 33131



H. John Rizvi