

TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: May 24, 2005

Cancellation No. 92044268

75818581

GIRLFRIEND ENTERPRISES, INC

v.

L&H Apparel, Inc.

Amy Matelski, Paralegal Specialist

The notice instituting this proceeding and a copy of the petition to cancel were forwarded to registrant but were returned by the Postal Service as undeliverable.

This Office as since ascertained a more recent address that service upon registrant could be effected and would be accepted when documents are mailed as follows:

Jasco Apparel Inc.
610 Anacapa Street B5
Santa Barbara, CA 93101

Accordingly, the above notice, with enclosure, is remailed as indicated above.

Registrant is allowed until forty days from the mailing date of this order in which to inform this Office of its correct address in order that all records may be amended.



06-06-2005

U.S. Patent & TMO/tm Mail Rcpt Dt. #64

Compliance with Trademark Rule 2.193(b) and Trademark 2.119(a) is required.

If there has been any transfer of interest in the involved registration, registrant must so advise the Board and registrant must submit copies of the appropriate documents. See Section 10 of the Trademark Act and Patent and Trademark Rules 3.71 and 3.73.

In view of the circumstances, the time for filing an answer to the petition to cancel is extended to **forty days** from the mailing date of this order. Any discovery requests or notices served that remain unanswered as of the mailing date of this order must be reserved in accordance with the rules, unless otherwise agreed to by the parties.

In accordance with the Trademark Rules of Practice, discovery is open, and the close of discovery and testimony dates are set as indicated below. In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

| | |
|--|--------------------------|
| Discovery period to close: | December 10, 2005 |
| Thirty-day testimony period for party in position of plaintiff to close: | March 10, 2006 |
| Thirty-day testimony period for party in position of defendant to close: | May 9, 2006 |
| Fifteen-day rebuttal testimony period to close: | June 23, 2006 |

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.

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.

TTAB

UNITED STATES PATENT AND TRADEMARK
OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: March 3, 2005

Jasco Apparel, Inc.
1 N. Cesar Chavez, No. 110
Santa Barbara, CA 93103

Cancellation No. 92044268
Reg. No. 2364754, 2364755

MELISSA GEORGES
FRANKFURT KURMIT KLEIN & SELZ, PC
488 MADISON AVENUE
NEW YORK, NY 10022

GIRLFRIEND ENTERPRISES, INC

V.

L&H Apparel, Inc.

Shelley Jamison, 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

Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at www.uspto.gov/web/offices/dcom/ttab/.

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: | March 23, 2005 |
| Discovery period to close: | September 19, 2005 |
| 30-day testimony period for party in position of plaintiff to close: | December 18, 2005 |
| 30-day testimony period for party in position of defendant to close: | February 16, 2006 |
| 15-day rebuttal testimony period for plaintiff to close: | April 02, 2006 |

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>.

FRANKFURT KURNIT KLEIN & SELZ PC

488 Madison Avenue
New York, New York 10022
Tel: (212) 980-0120
Fax: (212) 593-9175

EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label number **EV001845746US**
Date of Deposit **February 14, 2005**. I hereby certify that this paper
or fee is being deposited with the United States Postal Service
"Express Mail Post Office to Addressee" service under 37 CFR 1.10
on the date indicated above and is addressed to the Commissioner
for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Christina Matthews
Print
Christina Matthews
Signature

Christina Matthews
Paralegal
Direct: (212) 826-5573
e-mail:
cmatthews@fkkslaw.com

February 14, 2005

Via Express Mail
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Trademark Registration Nos. 2364754 and 2364755
Mark: **STARLETTE and STARLETTE & Design**
Class: 25
Our Ref. No. 4937-0100-M203

Dear Sir/Madam:

We enclose herewith:

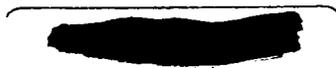
1. Petition to Cancel
2. Check in the amount of \$600; and
3. Postcard receipt.

This request is being submitted in triplicate as required by 37 CFR § 2.102(d). Please stamp the enclosed postcard to acknowledge receipt.

Respectfully submitted,

Christina Matthews
Christina Matthews

Enclosures



02-16-2005

FKKS: 258459.v1

U.S. Patent & TMO/TM Mail Rcpt Dt. #64

4937.100

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

GIRLFRIEND ENTERPRISES, INC.,

Petitioner,

-v-

JASCO APPAREL, INC. (by assignment),

Respondent.

Cancellation No. _____

Reg. Nos. 2364754 and
2364755

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22202-3513

PETITION TO CANCEL

Girlfriend Enterprises, Inc., a corporation organized under the laws of the State of New York and doing business at c/o Frankfurt Kurmit Klein & Selz, PC, 488 Madison Avenue, New York, New York 10022 ("Petitioner"), believes that it will be damaged by the continuing registration of the marks reflected in Registration Nos. 2364754 and 2364755 in International Class 25 and hereby petitions to cancel the same.

Petitioner is filing the cancellation as a consolidated proceeding due to the fact that the parties are the same, the registrations sought to be cancelled by Petitioner are substantially similar, and Petitioner is challenging the registrations on identical grounds. Accordingly, these proceedings may be presented on the same record and briefs without appreciable inconvenience or confusion. See Helene Curtis Industries v. Suave Shoe Corp., 13 USPQ2d 1618 (TTAB 1989).

As grounds for cancellation, it is alleged as follows:

02/24/2005 HP/AMM 00000036 2364754
01 FC16401 600.00 DP

1. Petitioner has been using the mark STARLET BY STAR JONES in commerce since at least as early as October 2003 in connection with footwear, hosiery, socks and belts. Such use has been valid and continuous since the date of first use and has not been abandoned.
2. Petitioner has two applications pending with the United States Patent and Trademark Office in International Class 25 for the mark STARLET BY STAR JONES for “[b]elts, footwear, hosiery, socks” (Serial No. 76/536079) and “[c]lothing namely blouses, blazers, coats, dresses, jackets, overalls, pants, shirts, shorts, skirts, leggings, slacks, sleepwear, loungewear, lingerie, robes, sweaters, suits, t-shirts, tops, bathing suits, undergarments, gloves, caps, hats, head bands, head wear, scarves, kerchiefs” (Serial No. 76/536080) (“Petitioner’s Applications”).
3. Respondent is the alleged owner of Registration Nos. 2364754 and 2364755 for the marks STARLETTE and STARLETTE (Design) for “women’s clothing, namely, tops, shirts, pants, blouses, skirts, jumpers, rompers, shorts, jumpsuits, jackets, headwear and lingerie” in International Class 25 (the “Registered Marks”).
4. Upon information and belief, Respondent is not using the Registered Marks in Class 25 in connection with clothing and has abandoned the Registered Marks due to nonuse.
5. Upon information and belief, Respondent has abandoned the Registered Marks by discontinuing its use of said marks with no intention to resume use.

6. Accordingly, Registration Nos. 2364754 and 2364755 should be cancelled pursuant to 15 U.S.C. § 1064(3).
7. Petitioner is likely to be damaged by continuance of said registrations in that Petitioner has been using the mark STARLET BY STAR JONES in interstate commerce and its legal use of said mark will be impaired by the continued registration of said abandoned marks of Respondent.
8. In addition, Petitioner is being damaged by the continued registration of the Registered Marks in that Petitioner's Applications have been rejected on the basis of Respondent's Registered Marks.

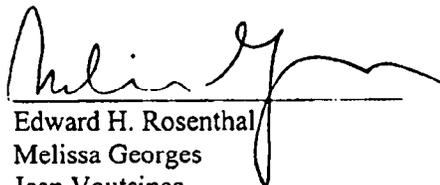
WHEREFORE, Petitioner requests that Registration Nos. 2364754 and 2364755 be cancelled.

A duplicate copy of this Petition to Cancel along with the required fees are enclosed herewith.

Respectfully submitted,

Dated: February 14, 2005

By:



Edward H. Rosenthal
Melissa Georges
Jean Voutsinas
Frankfurt Kurmit Klein & Selz, PC
488 Madison Avenue
New York, NY 10022
(212) 980-0120

Attorneys for Petitioner

United States Patent and Trademark Office
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
if Undeliverable Return in Ten Days

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U.S. POSTAGE



92044268

JASCO APPAREL, INC.
1 N. CESAR CHAVEZ, NO. 110
SANTA BARBARA, CA 93103

ITS

00093639

03-21-2005

U.S. Patent & Trademark Mail Rpt Dt #39