

ESTTA Tracking number: **ESTTA33477**

Filing date: **05/19/2005**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Live in Love, Inc. d/b/a Family Labels		
Entity	Corporation	Citizenship	Florida
Address	3400 S.W. 26th Terrace, A3 Fort Lauderdale, FL 33312 UNITED STATES		

Attorney information	Mary Margaret L. O'Donnell Rader, Fishman & Grauer, PLLC 39533 Woodward Avenue Suite 140 Bloomfield Hills, MI 48304 UNITED STATES mmlo@raderfishman.com, pjg@raderfishman.com Phone:248-594-0600		
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Registration Subject to Cancellation

Registration No	2908824	Registration date	12/07/2004
Registrant	Sheppard, Laura N. 1426 W. Strasburg RD West Chester, PA 19382 UNITED STATES		
Goods/Services Subject to Cancellation	Class 016. First Use: 20030902, First Use In Commerce: 20030902 Goods/Services: Stationery		

Attachments	r0294778.pdf (4 pages)
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Signature	/Mary Margaret L. O'Donnell/
Name	Mary Margaret L. O'Donnell
Date	05/19/2005

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

LIVE IN LOVE, INC.,
d/b/a FAMILY LABELS,

Petitioner,

v.

Cancellation No.:
Registration No.: 2,908,824
Mark: FAMILY DOODLES

LAURA N. SHEPPARD,
d/b/a SIGNS OF AFFECTION,

Respondent.

PETITION FOR CANCELLATION

Petitioner, Live in Love, Inc. d/b/a Family Labels, a Florida corporation, having a principal place of business at 3400 S.W. 26th Terrace, A3, Fort Lauderdale, Florida 33312 ("Petitioner"), believes that it will be damaged by Registration No. 2,908,824 for FAMILY DOODLES, by Laura N. Sheppard d/b/a Signs of Affection ("Respondent"), and hereby petitions to cancel same on the grounds that the mark is likely to cause confusion, or to cause mistake or to deceive with respect to (1) Petitioner's prior adoption and use of its FAMILY LABELS mark; and (2) Petitioner's Registration No. 2,642,157 for FAMILY LABELS ("Petitioner's FAMILY LABELS Mark").

Respondent's Registration No. 2,908,824 is for the mark FAMILY DOODLES ("Respondent's FAMILY DOODLES Mark") for "stationery" ("Respondent's Goods").

1. Petitioner is engaged in the business of designing, manufacturing and selling stationery and other products customizable with depictions of human and animal heads ("Petitioner's Goods/Services").

2. In connection with the above-stated activities, Petitioner has adopted Petitioner's FAMILY LABELS Mark and has continuously used such mark in connection with Petitioner's Goods/Services since at least as early as November 1999.

3. Petitioner has spent substantial sums promoting the goods and services offered under Petitioner's FAMILY LABELS Mark and Petitioner's Goods/Services have been extensively advertised by Petitioner via Petitioner's website, through trade shows, magazines, periodicals, brochures, trade and business magazines and other media.

4. As a result of the quality of Petitioner's Goods/Services and the widespread promotion thereof under Petitioner's FAMILY LABELS Mark, such goods/services have met with tremendous commercial success and widespread customer recognition. In addition, Petitioner's FAMILY LABELS Mark has become a symbol of Petitioner, its quality goods/services, and its goodwill.

5. In recognition of Petitioner's valuable rights in and to its FAMILY LABELS Mark, the United States Patent and Trademark Office has issued Registration No. 2,642,157. This registration constitutes *prima facie* evidence of the validity of the registered mark, of its registration, of Petitioner's ownership, and of Petitioner's exclusive right to use the mark for the goods specified in the registration.

6. Petitioner's FAMILY LABELS Mark was adopted and used prior to Respondent's filing date of its FAMILY DOODLES application resulting in Registration No. 2,908,824.

7. Petitioner's FAMILY LABELS application resulting in Petitioner's registration for FAMILY LABELS No. 2,642,157 was filed and issued to registration prior to Respondent's filing date of its FAMILY DOODLES application resulting in Registration No. 2,908,824.

8. Upon information and belief, Respondent is an individual doing business as “Signs of Affection,” with a principal place of business located at 1426 W. Strasburg Road, West Chester, Pennsylvania 19382

9. Notwithstanding Petitioner’s FAMILY LABELS Mark, Respondent filed its FAMILY DOODLES Mark for registration for Respondent’s Goods. The application resulting in the registration for Respondent’s FAMILY DOODLES Mark claims a date of first use in commerce and in interstate commerce of September 2, 2003.

10. Respondent’s FAMILY DOODLES Mark is substantially similar to Petitioner’s FAMILY LABELS Mark. Specifically, both parties’ marks begin with and are dominated by the term “FAMILY” followed by a second term ending in a similar-appearing and identically-pronounced “LES” or “ELS” suffix. Accordingly, the parties’ marks are substantially similar in sight, sound and meaning.

11. Further, Respondent’s Goods provided under Respondent’s FAMILY DOODLES Mark are legally identical to Petitioner’s Goods/Services.

12. In addition, the specific goods and services offered by Petitioner and Respondent are provided in the same marketing channels and to the same purchasers. Further, both Petitioner’s Goods/Services and Respondent’s Goods are advertised through the same media, including on the Internet. In sum, Petitioner’s Goods/Services and Respondent’s Goods are directly competitive.

13. In view of the foregoing, purchasers are likely to mistakenly assume that Respondent’s Goods, as set forth in Registration No. 2,908,824, originate from, are sponsored by or are in some way associated with Petitioner. Respondent’s FAMILY DOODLES Mark so resembles Petitioner’s FAMILY LABELS Mark as to be likely to cause confusion, or to cause

mistake or to deceive. Accordingly, Petitioner is likely to be damaged by the continued registration of Respondent's FAMILY DOODLES Mark.

WHEREFORE, PETITIONER PRAYS THAT Registration No. 2,908,824 be cancelled for the services recited in the registration and that this Petition for Cancellation be sustained in favor of Petitioner.

The Commissioner is authorized to charge the \$300.00 filing fee for this Petition for Cancellation to Deposit Account No. 18-0013. Additional fees required should be charged to the same account.

Respectfully submitted,

Date: May 19, 2005

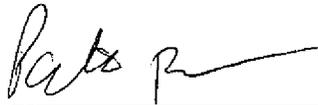


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CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on the following date:

Date: May 19, 2005



Patti J. Towers

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