

ESTTA Tracking number: **ESTTA43441**

Filing date: **08/29/2005**

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

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| Name | Printing Technology, Inc. | | |
| Entity | Corporation | Citizenship | California |
| Address | 9144 Deering Ave. Chatsworth, CA 91311 UNITED STATES | | |

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| Attorney information | Alan I. Cyrlin Wasserman, Comden Casselman & Pearson, LLP 5567 Reseda Blvd., Suite 330 Tarzana, CA 91357 UNITED STATES acyrlin@wccplaw.com Phone:818-609-2367 | | |
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Registration Subject to Cancellation

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| Registration No | 2859961 | Registration date | 07/06/2004 |
| Registrant | Wazana Brothers International, Inc. 9111 Mason Avenue Chatsworth, CA 91311 UNITED STATES | | |
| Goods/Services Subject to Cancellation | Class 002. First Use: 20020901, First Use In Commerce: 20020901 Goods/Services: Tonor cartridges, filled inkjet cartridges for computer printers, copiers and facsimile machines | | |

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| | Class 016. First Use: 20020901, First Use In Commerce: 20020901 Goods/Services: Photocopy papers for computer printers, copiers and facsimile machines |
| | Class 040. First Use: 20020901, First Use In Commerce: 20020901 Goods/Services: Custom manufacture of toner cartridges, inkjet cartridges and photocopy paper for computer printers, copiers and facsimile machines |

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| Related Proceedings | Wazana Brothers International, Inc. v. Printing Technology, Inc., U.S. District Court Central District of California, CV055596MMM |
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| Attachments | CANCEL.txt (1 page) |
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| Signature | /AIC/ |
| Name | Alan I. Cyrlin |
| Date | 08/29/2005 |

1. Petitioner and respondent are competitors in, without limitation, the sale, manufacture and distribution of toners and ink jet cartridges.

2. Respondent's registered mark, CHOOSE QUALITY, includes a disclaimer, "NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "QUALITY" APART FROM THE MARK AS SHOWN."

3. Petitioner has used the word "QUALITY" and/or "CHOICE" in connection with the sale and offer to sell its products. Respondent, notwithstanding the aforesaid disclaimer, has misused its registration by seeking to prevent petitioner from using the words QUALITY and/or CHOICE in any manner, including using said words to describe petitioner's products or services, on the ground that such use allegedly infringes respondent's registered mark. Respondent has filed a lawsuit against petitioner on the ground that petitioner has allegedly used a colorable imitation of the alleged mark CHOOSE QUALITY. Petitioner is likely to be damaged by continuance of said registration.

4. Respondent's alleged registered mark consists of a mark which, when applied to the goods and services of respondent, is merely descriptive in that said mark is an apt and common phrase used to describe goods and services of the nature involved. Petitioner is likely to be damaged by registration of CHOOSE QUALITY in that the prima facie effect of such registration tends to impair petitioner's right to descriptive use of said terms. In view of the above allegations, respondent is not entitled to continue registration of its alleged mark in that respondent is not entitled to exclusive use of said phrase in commerce on the goods and services specified and further, that respondent's alleged mark does not function to identify respondent's goods and services, and distinguish them from those offered by others.

5. Petitioner is informed and believes, and thereon alleges, that respondent has abandoned said registered mark. Petitioner is likely to be damaged by the continuance of said registration in that the registration will impair petitioner's lawful right to use said abandoned mark.

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(footnote continued)

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