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November 4, 2005

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451



11-07-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #11

Attention: TRADEMARK TRIAL AND APPEAL BOARD

Our Ref.: 215083

Re: PETITION TO CANCEL
To Registration No. 2,596,818
For STITCH & BITCH CAFE

Dear Sir:

1. We submit herewith a copy of a Petition to Cancel to the above referenced registration.
2. The official fee of \$600.00 is covered by the attached check. Please charge Deposit Account No. 01-0035 for any additional fees not fully covered by said check.
3. Kindly acknowledge receipt by returning the attached card.

Respectfully Submitted,


MARIE-ANNE MASTROVITO

Abelman Frayne & Schwab
666 Third Avenue
New York, NY 10017
212-949-9022

MAM:rd

CERTIFICATE OF MAILING

Date of Deposit : November 4, 2005

I hereby certify that this correspondence is being deposited with the United States Postal service as First Class Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

MARIE-ANNE MASTROVITO


(Signature of person mailing paper or fee)

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

IN THE MATTER OF

Trademark Registration No. 2,596,818, Issued July 23, 2002



11-07-2005

U.S. Patent & TMO/TM Mail Rpt Dt. #11

DEBORAH STOLLER

Petitioner,

v.

SEW FAST/SEW EASY, INC.

Respondent

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Cancellation No.

Date: November 4, 2005

PETITION TO CANCEL

DEBORAH STOLLER, an individual, citizen of the United States, believes that she will be damaged by the above identified registration and hereby petitions to cancel the same pursuant to Section 14 of the Trademark Act of 1946, as amended (15 U.S.C. 1064). As grounds therefore it is alleged that:

1. Petitioner, **Deborah Stoller**, is the author of the popular books "Stitch 'n Bitch: The Knitter's Handbook," and "Stitch 'n Bitch Nation," both of which have been listed on *The New York Times* bestseller list .

2. Petitioner owns a pending application for the mark STITCH 'N BITCH in connection with a series of books in the field of knitting, filed on May 12, 2004, which has been assigned Serial No. 78/417575 ("Petitioner's '575 Application").

3. Petitioner owns a pending application for the mark STITCH 'N BITCH in connection with bags and cases for knitting materials and supplies, filed on May 12, 2004, which has been assigned Serial No. 78/417582 ("Petitioner's '582 Application").

4. Petitioner owns a pending application for the mark STITCH 'N BITCH in connection with entertainment services, namely, a television show in the field of knitting, filed on May 12, 2005, which has been assigned Serial No. 78/417593 ("Petitioner's '593 Application").

5. Petitioner owns a pending application for the mark STITCH 'N BITCH in connection with knitting kits, filed on May 12, 2005, which has been assigned Serial No. 78/417589 ("Petitioner's '589 Application").

6. Respondent's Registration No. 2596818 ("Respondent's Registration") covers the mark STITCH & BITCH CAFÉ ("Respondent's Mark") in connection with "providing on-line chat rooms for the transmission of messages among computer users concerning sewing via a global computer network," and "sewing instruction and manuals distributed in connection therewith" ("Respondent's Services").

7. Petitioner's '575, '582, '593 and '589 Registrations have all been refused registration under Section 2(d) of the Trademark Act based on an alleged likelihood of confusion with the mark shown in Respondent's Registration.

8. The word CAFÉ is merely descriptive is widely used in connection with chat rooms and is merely descriptive of these type of Internet services.

9. Respondent's Registration includes a disclaimer of the exclusive right to use the word CAFE apart from the mark as shown. Thus, Respondent has conceded that this wording is merely descriptive of the services covered by Respondent's Registration.

10. The "&" in the Respondent's mark is the equivalent of the word "and."

11. The wording "stitch and bitch," and variations thereof such as "stitch & bitch," has been used to identify groups of sewers and knitters, the places where they gather to chat and

sew/knit, or the gatherings themselves, for many years and such use began long before Respondent's alleged first use of the mark STITCH & BITCH CAFÉ in 1998.

12. The wording "stitch & bitch" is merely descriptive of the services covered by the Respondent's registration because the services identified in the registration are, in essence, a virtual stitch and bitch group /club, and a stitch and bitch group where sewing instruction is provided.

13. In view of the foregoing, Respondent's Mark should be precluded from continued registration based on Section 2(e) of the Trademark Act, 15 U.S.C. 1052(e), because the mark as a whole is merely descriptive of the services covered by the registration.

14. Numerous third parties across the United States use the wording "stitch and bitch" (and variations thereof) as the generic or descriptive name of their group or club, to identify a type of get together, or to identify informational websites and chat rooms for sewers and knitters.

15. On information and belief, Respondent has taken no action to preclude most third parties from using "stitch & bitch," "stitch and bitch," or other highly similar variations thereof, in connection with services which are the same as, closely related to, Respondent's services.

16. On information and belief, any goodwill which may ever have been associated with the wording "stitch & bitch" in the Respondent's Mark has been destroyed by numerous third party uses of the same, or highly similar wording, in connection with services which are the same as, or closely related to, the services identified in Respondent's Registration.

17. On information and belief, any rights which Respondent may have held in the wording "stitch & bitch" have been abandoned by failure to police third party uses.

18. Respondent's mark will not be perceived as a source indicator, because of the widespread use of the wording "stitch and bitch", and variations thereof, by third parties to identify

similar or identical services, and the admitted descriptiveness of the word CAFE. Thus, the mark should be precluded from registration under Sections 1, 2 and 45 of the Trademark Act, because it does not function as a trademark.

WHEREFORE, Petitioner believes that it has a real interest in this proceeding and will be irreparably damaged by the continued registration of the Respondent's Mark, and respectfully requests that the Board sustain this cancellation action and cancel Registration No. 2596818.

A check for the official fee of \$600.00 is attached. It is requested that any additional fee be charged against Deposit Account No. 01-0035.

Respectfully submitted,

ABELMAN, FRAYNE & SCHWAB
Attorneys for Petitioner

Date: November 4, 2005

By:


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