

December 9, 2005

WRITER'S DIRECT LINE
310.975.7926
bkinder@foley.com EMAIL

CLIENT/MATTER NUMBER
043584-8001

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on December 9, 2005.



Brian P. Kinder, Esq.
California Bar No. 212,332

12 19 05

Date



12-15-2005

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

Dear Sirs:

Enclosed in triplicate please find a Petition for Cancellation, a courtesy copy of the Petition to Revive and Response to Office Action, and a confirmation postcard for the following:

Registrant	:	Lesley Torgeson and Jerry I. Farmer
Mark	:	DOGGSTYLE
Reg. No.	:	2,776,628
Issued	:	October 21, 2003
Docket No.	:	043584-8001

Please charge the \$300 fee required in this matter to our Deposit Account No. 50-0872. A duplicate of this form is enclosed.

Very truly yours,



Brian P. Kinder

BPK/ce

cc: Miriam Claire Beezy, Esq.
Foley & Lardner LLP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tamara Bick and Mary Pat Dowhy
Serial No. : 78/148,100
Filing Date: : July 26, 2002
Mark : DOGGIE STYLE

Maria-Victoria Suarez
Examining Attorney
Trademark Office 102

Los Angeles, California 90067
December 9, 2005

PETITION TO REVIVE

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

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, Virginia 22313-1451 on December 9, 2005.

Connie Early

Date

Dear Sir:

The above-captioned application was unintentionally abandoned as a result of the Petitioner's failure to timely file a Response to the Office Action dated March 15, 2005. Pursuant to the Trademark Act, 15 U.S.C. §§ 1(d)(4) and 12(b), and the Trademark Rules, 37 C.F.R. § 2.66(c), Petitioner hereby respectfully petitions the Commissioner to revive the above-captioned application.

REMARKS

Pursuant to the Trademark Act, 15 U.S.C. §§ 1(d)(4) and 12(b), the Trademark Rules, 37 C.F.R. § 2.66(c), and the Declarations of Petitioner attached hereto as Exhibits A, B and C, Petitioner hereby respectfully requests this Application be revived because the delay in filing the Response to the Office Action was wholly unintentional. Pursuant to Trademark Rule 2.66(c) Petitioner encloses herewith a proper Response to the Office Action.

Conclusion

Based upon the foregoing, Petitioner respectfully requests the above-captioned application be revived on the ground that abandonment was wholly unintentional. Petitioner requests that the Commissioner charge the required \$100 fee against the balance in the Petitioner's Deposit Account No 50-0872. If any additional fees are required in this matter, authorization to charge the above-mentioned Deposit Account is hereby provided.

Respectfully submitted,

FOLEY & LARDNER, LLP



Brian P. Kinder
California Bar No. 212,332

TTAB

Petition for Cancellation
U.S. Reg. No. 2776628
Mark: DOGGSTYLE
Ref. No. 043584-8001

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

MARY PAT DOWHY and TAMARA BICK)
)
Petitioners,)
)
v.)
)
LESLEY TORGESON and JERRY I. FARMER,)
)
Respondents.)

Cancellation No. _____



12-15-2005

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

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

12/23/2005 SWILSON1 00000031 500872 2776628 PETITION FOR CANCELLATION

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Ms. Mary Pat Dowhy, a U.S. individual, and Ms. Tamara Bick, a Canadian individual, residing, respectfully, at 1142 1/4 N. Gardner Ave., Los Angeles, CA 90048 and 139 North Laurel Avenue, Los Angeles, CA 90048 (hereinafter "Petitioners"), believe they are damaged by the maintained registration of the mark, DOGGSTYLE, shown in Registration No. 2,776,628. Petitioners hereby petition to cancel the same pursuant to the provisions of 15 U.S.C. § 1064. The grounds for cancellation are as follows:

1. On information and belief, Ms. Lesley Torgeson and Jerry I. Farmer are citizens of the U.S., residing at 6190 Braeburn Dr., Goleta, CA 93117 (hereinafter "Respondents") and are the record owners of U.S. Registration No. 2,776,628 directed to the mark DOGGSTYLE for use in connection with "clothing, namely, t-shirts, sweatshirts, shorts, jackets, pajamas, swim

suits, skirts, dresses, shirts, tank tops, pants, coats, sweaters, socks and hats” in International Class 25 (“Respondents’ Goods”).

2. On information and belief, Respondents initially filed the application that matured into U.S. Reg. No. 2,776,628 on an Intent-to-Use basis. The application filing date, and the corresponding constructive priority date, reflected in the U.S. Patent and Trademark Office records is April 8, 2002.

3. On information and belief, Respondents have alleged varying first use dates ranging between 2001 and 2002.

4. On information and belief, Respondents have no basis for claiming a first use date earlier than 2001.

5. Petitioners have used the mark, DOGGIE STYLE, in connection with clothing goods, including t-shirts, since at least as early as 1999, a date at least two years earlier than Respondents’ constructive priority date of April 8, 2002 and at least one year prior to Respondents’ earliest alleged first use date of 2001.

6. Petitioners’ application for DOGGIE STYLE, shown in U.S. Application No. 78/148,100, filed on July 26, 2002, for use in connection with “apparel, namely headwear, footwear, tops and bottoms, tank tops, t-shirts, shirts, sweatshirts, sweat pants, sweat suits, cardigans, sweaters, jackets, coats, jerseys, vests, pullovers, workout suits, briefs, panties, undershirts, pants, jeans, blouses, leggings, longjohns, skorts, shorts, trousers, jumpsuits, overalls, skirts, dresses, jumpers, swimwear, namely, bathing suits and cover-ups, leotards, tights, sleepwear, sleep shirts, pajamas, nightshirts, robes, nightgowns, supper socks, socks, hosiery, bandannas, scarves, mufflers, hats, caps, headbands, gloves, belts, women's underwear,

namely thongs and men's boxer shorts" has been denied registration based on Respondents' prior registration for DOGGSTYLE. See U.S. Registration No. 2,776,628.

7. Petitioners have expended, and continue to expend, considerable time, effort and expense in promoting, advertising, popularizing and enforcing Petitioners' DOGGIE STYLE in connection with clothing goods, including t-shirts. Petitioner has established valuable goodwill in Petitioner's DOGGIE STYLE mark.

8. On Information and belief, Petitioners' Goods and Respondents' Goods are overlapping and closely related, offered and sold through similar channels of trade and marketed under similar circumstances to a same or similar class of purchasers.

9. On information and belief, Respondents' DOGGSTYLE mark so resembles Petitioners' DOGGIE STYLE mark as to be likely, when used in connection with the services listed in Respondents' U.S. Reg. No. 2,776,628, to cause confusion, or to cause mistake, or to deceive.

10. On information and belief, the continued existence of U.S. Registration No. 2,776,628 for DOGGSTYLE damages Petitioners, as the registration confers upon Respondents various statutory presumptions to which they are not entitled in view of Petitioners' prior use of Petitioners' DOGGIE STYLE mark.

11. On information and belief, if Respondents' registration is maintained, it would maintain at least a prima facie exclusive right to use of the mark. Such registration would be a source of damage and injury to Petitioner, including, but not limited to, clouding the right of Petitioners to use, enforce or register their DOGGIE STYLE mark as a trademark with the U.S.

Patent and Trademark Office. Such an assertion is evidenced by the current refusal of registration to Petitioners' Application Serial No. 78/148,100.

12. Registration of Respondent's mark should therefore be cancelled under 15 U.S.C. §§ 1052(d) and 1064.

A duplicate copy of this Petition for Cancellation, and a return receipt postcard are enclosed herewith. Please charge the required fees for opposition in one (1) International Class to Deposit Account No. 50-0872. Authorization to charge any additional fees to the deposit account is hereby provided.

Respectfully submitted,

FOLEY & LARDNER LLP

Dated: _____

12/19/05

By: _____



Miriam Claire Beezy, Esq.
Brian P. Kinder, Esq.
Foley & Lardner LLP
2029 Century Park East, 35th Floor
Los Angeles, CA 90067

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tamara Bick and Mary Pat Dowhy
Serial No. : 78/148,100
Filing Date: : July 26, 2002
Mark : DOGGIE STYLE

Maria-Victoria Suarez
Examining Attorney
Trademark Office 102

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

DECLARATION IN SUPPORT OF PETITION TO
REVIVE UNINTENTIONALLY ABANDONED APPLICATION

I, Andy Shah, declare that I am over the age of eighteen and have personal knowledge of the facts set forth in this declaration. I hereby make the following statements in support of the Petition to Revive in this matter:

1. From July 25, 2005 to December 5, 2005, I was the Assistant to Miriam Claire Beezy and Brian P. Kinder.
2. I am advised that on March 15, 2005, the Examining Attorney at the US Patent and Trademark Office issued a final office action refusing registration on grounds of an alleged likelihood of confusion with a prior registration. A response to the office action was due on September 15, 2005.

3. In response to the Office Action, Reese Pecot of our firm's San Francisco office prepared a Notice of Cancellation directed to the cited registration for filing with the Trademark Trial and Appeal Board, as well as an Amendment for filing with the Examining Attorney requesting that action on the above-captioned application be suspended pending the cancellation proceeding.

4. Because her primary office is not the office of our firm that had physical custody of the client file, Reese Pecot provided the documents to Brian Kinder of our Los Angeles office. Mr. Kinder reviewed the documents and instructed me to finalize everything for his signature. Mr. Kinder then signed the documents and gave them to me for copying and mailing.

5. Although I recall that on or about September 6, 2005, I attended to copying the documents, preparing a confirmation postcard, making copies of the documents, and mailing the same via first class mail with a courtesy copy of each being sent to each party (e.g., original Notice of Cancellation with copy of Amendment to TTAB, and original Amendment with copy of Notice of Cancellation to the Examining Attorney), I was unable to locate file copies before departing Foley & Lardner LLP on December 5, 2005. Moreover, when I departed Foley & Lardner LLP, I had not yet received post cards back from the USPTO. Accordingly, it was and remains my belief that the documents were misplaced or lost in transit.

6. It is my understanding, that Foley & Lardner, LLP has now received a Notice of Abandonment in relation to the application in question. I hereby confirm that any resulting abandonment was entirely unintentional, as it was my understanding that the response to the Office Action had been mailed as well as a Notice of Cancellation.

I declare that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

Executed this 8th day of December, 2005 at Norwalk, California.

By:



Anand S. Shah,
Former Assistant to
Miriam Claire Beezy, Esq. and
Brian P. Kinder, Esq.
Attorneys for Applicant

DECLARATION IN SUPPORT
OF PETITION TO REVIVE
MARK: DOGGIE STYLE
SER. NO. 78/148,100
REF. NO. 043584-8001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tamara Bick and Mary Pat Dowhy
Serial No. : 78/148,100
Filing Date: : July 26, 2002
Mark : DOGGIE STYLE

Maria-Victoria Suarez
Examining Attorney
Trademark Office 102

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

**DECLARATION IN SUPPORT OF PETITION TO
REVIVE UNINTENTIONALLY ABANDONED APPLICATION**

I, Brian Kinder, declare that I am over the age of eighteen and have personal knowledge of the facts set forth in this declaration. I hereby make the following statements in support of the Petitioner to Revive in this matter:

1. On March 15, 2005, the Examining Attorney at the US Patent and Trademark Office issued a final office action refusing registration on grounds of an alleged likelihood of confusion with a prior registration. A response to the office action was due on September 15, 2005.

2. In response to the Office Action, Reese Pecot of our firm's San Francisco office prepared a Notice of Cancellation directed to the cited registration for filing with the Trademark Trial and Appeal Board, as well as an Amendment for filing with the Examining Attorney

requesting that action on the above-captioned application be suspended pending the cancellation proceeding.

3. Because I am in the Los Angeles office where the physical client file is kept, I coordinated with Ms. Pecot on the filing. Ms. Pecot advised me of the documents, which I reviewed and instructed my Assistant Andy Shah to finalize. I signed all of the documentation, then gave it to my Assistant for mailing.

4. It is my understanding and belief, based upon my subsequent conversation with my Assistant, Mr. Shah, that the documents were filed on or about September 6, 2005 by First Class Mail with a courtesy copy of each being sent to each party (e.g., original Notice of Cancellation with copy of Amendment to TTAB, and original Amendment with copy of Notice of Cancellation to the Examining Attorney).

5. Our firm has now received a Notice of Abandonment in relation to the application in question. I hereby confirm that any resulting abandonment was entirely unintentional, as it was my understanding that the response to the Office Action had been entered and a Notice of Cancellation filed.

6. In light of the above, the undersigned respectfully requests that the Petition be granted and the above-identified application be revived. A Response to the Office Action is attached.

I declare that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

Executed this 9th day of December, 2005 at Los Angeles, California.

By:



Brian P. Kinder, Esq.
California Bar No. 212,332
Attorney for Applicant

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

Applicant: Ms. Mary Pat Dowhy, a U.S. citizen, and
Ms. Tamara Bick, a Canadian citizen

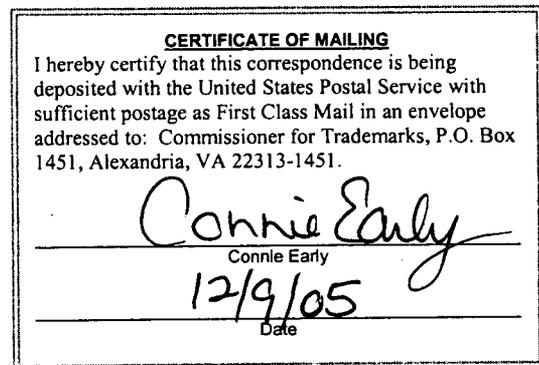
Serial No.: 78/148,100

Filing Date: July 26, 2002

Mark: DOGGIE STYLE

Trademark Examining Attorney
Maria Victoria Suarez
Law Office 102

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



RESPONSE TO OFFICE ACTION

The following remarks are in response to the final Office Action dated March 15, 2005 in connection with the above-referenced application.

I. Likelihood of Confusion/Request for Suspension

The Applicant has applied to register the mark, DOGGIE STYLE, as shown in Application Serial No. 78/148,100, for use with "apparel, namely headwear, footwear, tops and bottoms, tank tops, t-shirts, shirts, sweatshirts, sweat pants, sweat suits, cardigans, sweaters, jackets, coats, jerseys, vests, pullovers, workout suits, briefs, panties, undershirts, pants, jeans, blouses, leggings, longjohns, skorts, shorts, trousers, jumpsuits, overalls, skirts, dresses, jumpers, swimwear, namely, bathing suits and cover-ups, leotards, tights, sleepwear, sleep shirts, pajamas, nightshirts, robes, nightgowns, supper socks, socks, hosiery, bandannas, scarves, mufflers, hats, caps, headbands, gloves, belts, women's underwear, namely thongs and men's boxer shorts."

The Examiner has cited, as a bar to registration of Applicant's mark, U.S. Registration No. 2,776,628 for the mark DOGGSTYLE for "clothing, namely, t-shirts, sweatshirts, shorts, jackets, pajamas, swim suits, skirts, dresses, shirts, tank tops, pants, coats, sweaters, socks and hats" in International Class 25.

Concurrently herewith, Applicant has filed a petition for cancellation of U.S. Registration No. 2,776,628.¹ Accordingly, pursuant to TMEP §716.02(a), Applicant requests that further prosecution of this application be suspended pending resolution of the cancellation proceeding.

CONCLUSION

In view of the foregoing, the Applicant respectfully requests that the application be suspended pending the resolution of the cancellation proceeding. The Applicant believes in good faith that it has responded to all issues raised in the Office Action. However, should any questions arise with respect to the above, please call Miriam Beezy at (310) 975-7966 or Brian Kinder at (310) 975-7926. If any additional fees are required, authorization to charge Deposit Account No. 50-0872 is hereby provided.

Respectfully submitted,

FOLEY & LARDNER, LLP

Date: 12/9/05

By: 

Miriam Claire Beezy, Esq.
Brian P. Kinder, Esq.
Foley & Lardner LLP
2029 Century Park East, 35th Floor
Los Angeles, CA 90067

¹ For the Examiner's reference, the Applicant attaches a courtesy copy of the Petition for Cancellation filed concurrently herewith.