

ESTTA Tracking number: **ESTTA74085**

Filing date: **04/03/2006**

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	National Center For Fathering, Inc.		
Entity	Corporation	Citizenship	Kansas
Address	10200 West 75th Street, Suite 267 Shawnee, KS 66204 UNITED STATES		

Attorney information	Clinton G. Newton Shook, Hardy & Bacon L.L.P. 2555 Grand Blvd. Kansas City, MO 64108 UNITED STATES cnewton@shb.com, jcamacho@shb.com, jglidewell@shb.com, tdunkin@shb.com Phone:(816) 474-6550
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Registration Subject to Cancellation

Registration No	2440274	Registration date	04/03/2001
Registrant	FATHER'S DAY/MOTHER'S DAY COUNCIL INC. 47 West 34th Street, Room 1009 New York, NY 10001 UNITED STATES		
Goods/Services Subject to Cancellation	Class 041. First Use: 1941/06/00 , First Use In Commerce: 1941/06/00 Goods/Services: entertainment services, namely, presentation of an award to honor a father for excellence in the field of fatherhood		

Attachments	NCF Cancellation Petition.pdf (4 pages)
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Signature	/Clinton g. Newton/
Name	Clinton G. Newton
Date	04/03/2006

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

NATIONAL CENTER FOR FATHERING, INC,)	
)	
)	Cancellation No. _____
Petitioner,)	
)	
v.)	Registration No. 2,440,274
)	
FATHER’S DAY/MOTHER’S DAY COUNCIL INC.,)	Mark: FATHER-OF-THE-YEAR
)	
Registrant.)	

PETITION TO CANCEL

In the matter of Registration No. 2,440,274 for the mark FATHER-OF-THE-YEAR, for use in connection with entertainment services, namely, presentation of an award to honor a father for excellence in the field of fatherhood, granted to FATHER’S DAY/MOTHER’S DAY COUNCIL INC., with a last known place of business at 47 West 34th Street, Room 1009 New York NEW YORK 10001 (referred to as “Registrant” herein):

National Center For Fathering, Inc., a NOT FOR PROFIT corporation organized under the laws of Kansas, having an address at 10200 W 75TH ST STE 267, SHAWNEE MISSION, KS 66204 (referred to as “Petitioner” herein) with the mission to improve the well-being of children by inspiring and equipping men to be more effectively involved in the lives of children, believes that it has been and will continue to be damaged by Registration No. 2,440,274 for the mark FATHER-OF-THE-YEAR and hereby petitions to cancel said registration. As grounds for cancellation, Petitioner alleges:

1. On information and belief, Registrant did not file an Application for the FATHER-OF-THE-YEAR mark until September 13, 1999.¹

2. However, at least as early as seven (7) years prior to the filing date of Registrant's application, Petitioner began using the phrase "Father of the Year" in connection with its national, annual "Father of the Year" essay contest to, among other things, raise awareness about the importance of fathering. Petitioner has continued to use, and is continuing to use today, the phrase "Father of the Year" in connection with its national, annual "Father of the Year" essay contests.²

3. Petitioner has held such "Father of the Year" essay contests in many cities across the nation, including: Minneapolis, MN; Kansas City, MO; Naples, FL; Illinois; Chattanooga, TN; Houston, TX; Seattle, WA; Fresno, CA; Merced, CA; Grants Pass, OR; Tampa, FL, Topeka, KS; Louisiana; Arkansas; Oklahoma. City, OK; Tulsa, OK; Dallas, TX; and the Dist. of Columbia.

4. Typically, essays are received throughout a year, and presented in such settings as during a major sporting event.

5. Over the past decade the essay contest has helped connect Petitioner to an estimated 700,000 children, fathers and families across the United States.

6. Greater insight into the mission of Petitioner can be found at www.fathers.com.

¹ The application was assigned Serial No.75/801,862, and was published for opposition in the Official Gazette on January 9, 2001, identifying the goods and services as "entertainment services, namely, presentation of an award to honor a father for excellence in the field of fatherhood," in International Class 041.

² Petitioner notes that because it is alleging cancellation on grounds that the mark is merely descriptive, it does not need to prove priority use. *See Safeway Stores, Inc. v. Albertson's, Inc.*, 209 U.S.P.Q. 673 (T.T.A.B. 1980); *Textron Inc. v. Omark Indus., Inc.*, 208 U.S.P.Q. 524 (T.T.A.B. 1980); *General Mills, Inc. v. K-Mar Foods, Inc.*, 207 U.S.P.Q. 510 (T.T.A.B. 1980).

7. Petitioner has standing and a real interest in this proceeding because we allege that we have a right to use “Father of the Year” descriptively in connection with at least our annual essay contests.

8. Based at least on the assertions above, non-cancellation of Registrant’s mark would interfere with Petitioner’s right to lawful descriptive use of the term “Father of the Year” in connection with its goods or services, and particularly with Petitioner’s ability to recognize a particular father in connection with its essay contest.

9. Registrant’s mark, FATHER-OF-THE-YEAR, is merely descriptive of Registrant’s services, namely, presenting an award annually to honor a father for excellence in the field of fatherhood, i.e., a father-of-the-year.

10. The mark FATHER-OF-THE-YEAR is also merely descriptive because it simply informs the public of the characteristics, quality, function, uses, or other properties of the services offered by Registrant and which are associated with honoring a selected father of the year.

WHEREFORE, in view of Registrant’s FATHER-OF-THE-YEAR mark being merely descriptive of Registrant’s services, Petitioner prays that this cancellation be granted, and that Registration No. 2,440,274, issued April 3, 2001, be cancelled.

Petitioner has appointed Shook, Hardy & Bacon L.L.P., including but not limited to Michael J. Gross, Patrick A. Lujin, Peter C. Knops, Daniel W. Shinn, B. Trent Webb, Scott B. Strohm, Clinton G. Newton, Jeffrey B. Williams, Tawni L. Wilhelm, Marshall Honeyman, Bart A. Starr, Jean M. Dickman, Matthew Q. Ammon, Eric A. Buresh, Jesse J. Camacho, Adam P. Seitz, John E. Gibson, D. Wade Schnell, Leonard Searcy, John S. Golian, Jonathan N. Zerger, M. Jennifer Brown, Kenneth P. Kula, Lisa R. Brooks-Hammond, Kevin K. Jones, Peter J. Hoeller,

Peter W. Baik, and Jason R. Mudd, all members of the Bar of the State of Missouri, having offices at 2555 Grand Blvd., Kansas City, Missouri 64108, its attorneys, with full power of substitution and revocation, to institute and conduct this cancellation proceeding and to transact all business before the Trademark Trial and Appeal Board and in the Patent and Trademark Office connected herewith.

The filing fee of this Cancellation Petition in the amount of \$300.00 is being paid herewith. The Commissioner is hereby authorized to charge any additional fees that are required, or credit any overpayment, to deposit account 19-2112.

Respectfully submitted,

Date: April 3, 2006

By: /Clinton G. Newton/
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