

ESTTA Tracking number: **ESTTA90128**

Filing date: **07/17/2006**

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	I Spiewak & Sons, Inc.		
Entity	Corporation	Citizenship	New York
Address	469 Seventh Avenue New York, NY 10018 UNITED STATES		

Attorney information	Stephen J. Quigley Abelman, Frayne & Schwab 666 Third Avenue New York, NY 10017-5621 UNITED STATES sjquigley@lawabel.com Phone:212-949-9022		
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Registration Subject to Cancellation

Registration No	3105982	Registration date	06/20/2006
International Registration No.	NONE	International Registration Date	NONE
Registrant	Viz Reflectives Limited Vision House Marshfield Bank Employment Park Middlewich Road Crewe, Cheshire, CW2 8UY UNITED KINGDOM		
Goods/Services Subject to Cancellation	Class 009 Goods/Services: protective clothing and footwear, namely, reflective and fluorescent clothing, namely, vests, waistcoats, tabards, bibs, armbands, jackets, fleece outerwear, trousers and rainwear; reflective and fluorescent footwear; reflective and fluorescent headgear, namely, hats, helmets and baseball caps; all being for the protection of accident or injury		

Related Proceedings

Attachments

Signature
Name
Date

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

I. SPIEWAK & SONS, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Reg. No.: 3,105,982
	:	
VIZ REFLECTIVES LIMITED,	:	
	:	
Registrant.	:	
	:	

PETITION FOR CANCELLATION

I. Spiewak & Sons, Inc., a corporation organized and existing under the laws of the State of New York, with an address at 469 Seventh Avenue, New York, NY 10018 (“Petitioner”), believes that it will be damaged by the continued registration of the mark VIZWEAR, Registration No. 3,105,982 issued on June 20, 2006 (“Registrant’s Mark”), owned by Viz Reflectives Limited, a corporation organized and existing under the laws of the United Kingdom, with an address at Vision House, Marshfield Bank Employment Park, Middlewich Road, Crewe, Cheshire CW2 8UY, United Kingdom (“Registrant”) for protective clothing and footwear, namely, reflective and fluorescent clothing, namely, vests, waistcoats, tabards, bibs, armbands, jackets, fleece outerwear, trousers and rainwear; reflective and fluorescent footwear; reflective and fluorescent headgear, namely, hats, helmets and baseball caps; all being for the protection of accident or injury, in International Class 9; and for clothing, namely, vests, waistcoats, tabards, bibs, armbands, jackets, fleece outerwear, trousers and rainwear; footwear; headgear, namely, hats, helmets and baseball caps, in International

Class 25. Petitioner, as a result, petitions to cancel Registrant's Mark.

As grounds for opposition, it is alleged that:

1. Petitioner is the owner of the mark VIZGUARD ("Petitioner's Mark") which has been continuously used in commerce in the United States since at least as early as March, 2000 in connection with light reflective safety products, namely, reflective safety bands, stripes, letters, emblems and trimming applied to apparel, in International Class 9; and in connection with clothing with light reflective trimming, including coats, jackets, belts, vests, shirts, armbands, pants, jumpsuits, hoods and hats, in International Class 25. By virtue of the distribution, sale, advertising and promotion of products bearing Petitioner's Mark, this mark is widely recognized by the purchasing public as identifying Petitioner's goods.

2. Petitioner owns United States Patent and Trademark Office Registration No. 2,601,882 for VIZGUARD for the goods set forth in paragraph 1 above.

3. The first three letters of Registrant's Mark are identical to Petitioner's Mark.

4. The goods in Registrant's Mark are identical or closely related to the goods in Petitioner's Mark.

5. The goods in Registrant's Mark are capable of being marketed through the same channels of trade to the same classes of prospective purchasers as the goods in Petitioner's Mark.

6. Because Petitioner's use of Petitioner's Mark in commerce predates the filing date for the application to register Registrant's Mark, there is no issue of priority in this proceeding.

7. Registrant's Mark is confusingly similar to Petitioner's Mark, and its use and continued registration is likely to deceive and to cause mistake or confusion among members of the public as to the source of Registrant's goods within the meaning of 15 U.S.C. §1052(d).

8. As a result of the foregoing, Petitioner will be damaged within the meaning of 15 U.S.C. §1064.

WHEREFORE, Petitioner requests that Registration No. 3,105,982 be canceled.

Respectfully submitted,



Lawrence E. Abelman
Stephen J. Quigley

Dated: July 17, 2006

ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York, New York 10017-5621
Telephone: (212) 949-9022
Facsimile: (212) 949-9190
Email: sjquigley@lawabel.com

Attorneys for Petitioner