

ESTTA Tracking number: **ESTTA96969**

Filing date: **08/30/2006**

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	Chanel, Inc.		
Entity	Corporation	Citizenship	New York
Address	9 West 57th Street New York, NY 10019 UNITED STATES		

Attorney information	Laura Popp-Rosenberg, Esq. Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES lpopp-rosenberg@frosszelnick.com Phone:(212) 813-5900
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Registration Subject to Cancellation

Registration No	2748181	Registration date	08/05/2003
Registrant	MAURIELLO, FRANK 23 Plaza Place Pleasantville, NJ 08232 UNITED STATES		
Goods/Services Subject to Cancellation	Class 018. First Use: 2003/01/00 , First Use In Commerce: 2003/01/00 Goods/Services: UMBRELLAS, wallets, purses, handbags, travel bags, business card cases, passport cases, clutch bags, key cases, attache cases, duffel bags and tote bags		

Related Proceedings	Opposition No. 91168097 and Consolidated Opposition No. _____ (filed today, ESTTA tracking number ESTTA96964)
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Attachments	Petition for Cancellation.pdf (6 pages)(1657488 bytes)
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Signature	/Laura Popp-Rosenberg/
Name	Laura Popp-Rosenberg, Esq.
Date	08/30/2006

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

In the Matter of Registration No. 2,748,181
Trademark: ENELLE
Registered August 5, 2003

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CHANEL, INC.,	:	
	:	
Petitioner,	:	
	:	Cancellation No. _____
- against -	:	
	:	
FRANK MAURIELLO,	:	
	:	
Registrant.	:	
-----X		

PETITION FOR CANCELLATION

Chanel, Inc., a New York corporation organized and existing under the laws of the state of New York, located and doing business at 9 West 57th Street, New York, New York 10019 ("Petitioner"), believes that it would be damaged by the continued registration of U.S. Registration No. 2,748,181 for the mark ENELLE issued on August 5, 2003 and hereby petitions to cancel the same pursuant to Section 14 of the Lanham Trademark Act of 1946, 15 U.S.C. § 1064.

As grounds for its petition, Petitioner, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Petitioner is a manufacturer and seller of a wide variety of luxury goods. Petitioner has owned and used the trademark and trade name CHANEL since 1920, which trademark and trade name it has used in the U.S. for more than 80 years. The CHANEL mark is one of the most respected and famous marks in the world, has become synonymous with Petitioner, and serves exclusively to designate Petitioner's high quality goods and services.

2. Petitioner is the owner of all right, title and interest in and to the CHANEL trademark, and to numerous U.S. federal trademark registrations for the CHANEL mark, including but not limited to:

Mark	Reg. No.	First Use in Commerce	Class	Goods/Services
CHANEL	626,035	Nov. 24, 1954	18	Women's handbags
CHANEL	1,263,845	1977	42	Retail store services in the field of clothing and accessories
CHANEL	1,347,677	Nov. 24, 1954	18	Leather goods; namely, handbags
CHANEL	1,733,051	1954	18	Leather goods; namely, handbags, wallets, travel bags, luggage, business and credit card cases, change purses, tote bags, cosmetic bags sold empty, and garment bags for travel

These registrations are valid, subsisting and in full force and effect, and constitute prima facie evidence of the validity of the marks and of Petitioner's exclusive right to use them on the goods or in connection with the services in the registrations listed above.

3. The CHANEL mark is used on millions of dollars worth of consumer goods, is featured extensively in advertisements in television and print, and is promoted on Petitioner's website. Merchandise bearing the CHANEL mark is regarded as a status symbol, and is highly desirable. Due to the careful monitoring of Petitioner's image and products, Petitioner is able to command luxury-goods prices for merchandise bearing the CHANEL mark due to its exclusive yet widespread appeal.

4. As a result of Petitioner's use for more than eighty years of the CHANEL mark in commerce in the United States, the CHANEL mark has acquired enormous value and has become famous and well-known to the consuming public and the trade as identifying and distinguishing goods and services exclusively from, or authorized by, Petitioner.

5. Upon information and belief, Registrant Frank Mauriello is a U.S. citizen with a business address of 23 Plaza Place, Pleasantville, New Jersey 08232.

6. Upon information and belief and according to the records of the United States Patent and Trademark Office ("PTO"), on or about July 2, 2001, Registrant filed an intent-to-use application for the mark ENELLE for "umbrellas, wallets, purses, handbags, travel bags, business card cases, passport cases, clutch bags, key cases, attaché cases, duffel bags and tote bags" in International Class 18. The application matured to registration on August 5, 2003 and is the subject of this cancellation petition.

COUNT I: REGISTRATION IN VIOLATION OF SECTION 2(d)

7. Petitioner repeats the allegations contained in paragraphs 1 through 6 as if fully set forth herein.

8. Petitioner's rights in its CHANEL mark was established long prior to any date on which Registrant may rely.

9. Upon information and belief, Registrant had actual knowledge of Petitioner's prior rights to and interest in the CHANEL mark and of the worldwide fame of that mark long prior to his adoption of the ENELLE mark, prior to his filing the application that matured into the registration at issue, and prior to his first use of the ENELLE mark. As a matter of law, Registrant was on constructive notice of Petitioner's rights in the CHANEL mark based on Petitioner's registrations, and Registrant had such constructive notice before filing the applications herein opposed.

10. The registration at issue consists of a mark that is substantially similar in sound, appearance, and commercial impression to Petitioner's famous and federally registered CHANEL mark. The goods covered in Registrant's registration are identical and/or closely

related to goods on which Petitioner has used its CHANEL mark and goods covered by its registrations.

11. Given the similar if not identical nature of the parties' goods, Registrant's use of a mark that is highly similar to Petitioner's prior used and famous CHANEL mark is likely to cause consumers mistakenly to believe that Registrant's goods are approved, endorsed or sponsored by Petitioner, or that Petitioner is the source of Registrant's goods, or that the goods of Registrant are in some other way associated with Petitioner, all to Petitioner's injury and harm.

12. Continued registration of the ENELLE mark is likely to cause confusion, cause mistake, or to deceive the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. Continued registration of the ENELLE mark is inconsistent with Petitioner's prior rights in the CHANEL mark, is inconsistent with Petitioner's statutory grant of exclusivity of use of the registered CHANEL mark, and would destroy Petitioner's investment and good will in its CHANEL mark.

14. By reason of the foregoing, Petitioner is likely to be harmed by continued registration of U.S. Registration No. 2,748,181.

COUNT II: REGISTRATION IN VIOLATION OF SECTION 2(f)

15. Petitioner repeats and realleges each and every allegation contained in paragraphs 1 through 14 as if fully set forth herein.

16. The CHANEL mark is inherently distinctive, has been used for decades on and in connection with a wide variety of Petitioner's products, is the subject of numerous federal trademark registrations, and is famous.

17. Registrant applied to register the ENELLE mark and used such mark well after Petitioner's CHANEL mark became famous.

18. Continued registration of the ENELLE mark dilutes and/or is likely to dilute the distinctive quality of Petitioner's CHANEL mark in that continued registration of the ENELLE mark would lessen the capacity of Petitioner's CHANEL mark to identify and distinguish goods as exclusively from Petitioner. Accordingly, continued registration of Registrant's ENELLE mark violates Section 43(e) of the Lanham Act, 15 U.S.C. § 1125(e), and would be inconsistent with Petitioner's statutory grant of exclusive rights in the CHANEL mark.

19. By reason of the foregoing, Petitioner is likely to be harmed by continued registration of U.S. Registration No. 2,748,181.

COUNT III: PARTIAL ABANDONMENT

20. The goods identified in U.S. Registration No. 2,748,181 are "umbrellas, wallets, purses, handbags, travel bags, business card cases, passport cases, clutch bags, key cases, attaché cases, duffel bags and tote bags."

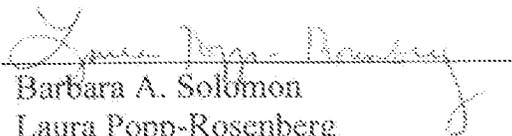
21. Upon information and belief, the Registrant has abandoned use of the mark ENELLE in connection with business card cases, passport cases, key cases, attaché cases, and duffel bags.

22. Petitioner will be damaged by the presumptions flowing from the continued registration of the mark ENELLE for goods for which Registrant no longer uses the mark, as such registration is inconsistent with Petitioner's prior rights in the CHANEL mark, is inconsistent with Petitioner's statutory grant of exclusivity of use of the registered CHANEL mark, and diminishes the distinctiveness of the CHANEL trademark.

WHEREFORE, it is respectfully requested that this petition for cancellation be sustained and that U.S. Registration No. No. 2,748,181 be cancelled.

Dated: New York, New York
August 30, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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