



TTAB
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January 11, 2007

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

Dear Mrs. Canady,

We received the enclosed letter from your office regarding the Just Boys Just Girls trademark.

Jim Klaus, President of Children's Wear Digest, called the lawyers for H.J. Rashti & Company, Morgan & Finnegan, in December of 2006 to discuss our use of the Just Boys Just Girls trademark. We have mailed a catalog in the past called Just Boys Just Girls and do have a private label for clothing using the Just Boys Just Girls logo that we periodically carry.

Our plans for the future may include launching a website for Just Boys Just Girls or reviving the catalog. Therefore, we had asked their lawyers for a proposal for monetary compensation for the trademark. We have not heard back from them.

We do not feel that the trademark should be taken away from us because not only might we use the term, but also because we have tried to contact Morgan & Finnegan, but have not received a response in order to discuss the matter.

Please let us know if you have any questions.

Sincerely,

Tracy Schneider
VP -Marketing & Operations
Children's Wear Digest


01-12-2007
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: January 5, 2007

Cancellation No. 92046595

H. J. Rashti & Company, Inc.

v.

Children's Wear Digest, Inc.

Millicent Canady, Paralegal Specialist

Answer was due in this case on December 18, 2006. Inasmuch as it appears that no answer has been filed, nor has respondent filed a motion to extend its time to answer, notice of default is hereby entered against respondent under Fed. R. Civ. P. 55(a).

Respondent is allowed until thirty days from the mailing date of this order to show cause why judgment by default should not be entered against respondent in accordance with Fed. R. Civ. P. 55(b).

UNITED STATES PATENT AND TRADEMARK
OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: November 8, 2006

PHILIP W. KLAUS JR.
CHILDREN'S WEAR DIGEST
3607 MAYLAND CT
RICHMOND , VA 23233

Cancellation No. 92046595
Reg. No. 2453043

MAREN C. PERRY
MORGAN & FINNEGAN L.L.P.
3 WORLD FINANCIAL CTR FL 21
NEW YORK, NY 10281-2101

H. J. Rashti & Company, Inc.

V.

Children's Wear Digest, Inc.

Clara Vela, Paralegal Specialist

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the

Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at www.uspto.gov/web/offices/dcom/ttab/.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open:	11/28/2006
Discovery period to close:	5/27/2007
30-day testimony period for party in position of plaintiff to close:	8/25/2007
30-day testimony period for party in position of defendant to close:	10/24/2007
15-day rebuttal testimony period for plaintiff to close:	12/8/2007

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA108576**

Filing date: **11/08/2006**

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	H. J. Rashti & Company, Inc.		
Entity	Corporation	Citizenship	New York
Address	1375 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Maren C. Perry Morgan & Finnegan, LLP 3 World Financial Center New York, NY 10281-2101 UNITED STATES ptotmcommunications@morganfinnegan.com Phone:(212) 415-8700		
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Registration Subject to Cancellation

Registration No	2453043	Registration date	05/22/2001
Registrant	Children's Wear Digest, Inc. 3607 Mayland Court Richmond, VA 23233 UNITED STATES		
Goods/Services Subject to Cancellation	Class 035. First Use: 1999/03/15 , First Use In Commerce: 1999/03/15 Goods/Services: Mail order services specializing in children's apparel and accessories		
Grounds for Cancellation	The registered mark has been abandoned.		

Attachments	JUSTBOYSpetitiontocancel.pdf (2 pages)(89544 bytes)
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Signature	/mcp/
Name	Maren C. Perry
Date	11/08/2006

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

**In the Matter of Registration No. 2,453,043
for the Mark JUST BOYS JUST GIRLS
Date of Issue: May 22, 2001**

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H. J. RASHTI & COMPANY, INC.,

:

Petitioner,

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v.

:

CHILDREN'S WEAR DIGEST, INC.,

:

Registrant.

:

-----X

Cancellation No.

PETITION FOR CANCELLATION

Petitioner, H. J. Rashti & Company, Inc., a corporation organized and existing under the laws of the State of New York having a business address at 1375 Broadway, 20th Floor, New York, New York 10018 believes that it is or will be damaged by U.S. Trademark Registration No. 2,453,043 and hereby petitions to cancel same.

As grounds for this petition it is alleged that:

1. U.S. Trademark Registration No. 2,453,043 issued on May 22, 2001 to the Children's Wear Digest, Inc. for the mark JUST BOYS JUST GIRLS (stylized) in connection with "mail order services specializing in children's apparel and accessories" in International Class 35.
2. Upon information and belief, the current owner, the Children's Wear Digest, Inc.'s address is 3607 Mayland Court, Richmond, Virginia 23233.

3. Petitioner filed U.S. Application Serial No. 78/768,414 on December 7, 2005 for the mark JUST BOYS in connection with "blankets, blanket with a plush toy, plush rattle, teether attached", "clothing" and "plush toys, plush rattle, squeak toy attached to a blanket; novelty plush toys", in International Classes 24, 25 and 28, respectively.

4. The U.S. Patent and Trademark Office Examiner assigned to application Serial No. 78/768,414 has refused registration, alleging that the mark in the application is likely to cause confusion, or to cause mistake or to deceive with respect to the mark in Registration No. 2,453,043.

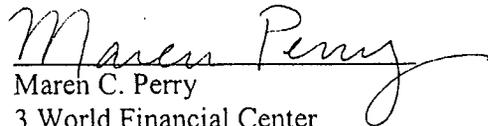
5. Petitioner will be or is likely to be damaged by continued existence of Registration No. 2,453,043 because this registration may prevent registration of petitioner's mark.

6. Upon information and belief, Children's Wear Digest, Inc. is no longer using the mark JUST BOYS JUST GIRLS (stylized) on the services listed in its registration, namely, "mail order services specializing in children's apparel and accessories", and has not used said mark for more than three (3) years, and has abandoned said mark.

WHEREFORE, Petitioner requests that U.S. Registration No. 2,453,043 be canceled and this petition be sustained in favor of the Petitioner.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

By: 
Mareh C. Perry
3 World Financial Center
New York, New York 10281
(212) 415-8700

Dated: New York, New York
November 8, 2006

Attorneys for Petitioner