

ESTTA Tracking number: **ESTTA145287**

Filing date: **06/11/2007**

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	Monty D Cosmetics, LLC		
Entity	limited liability company	Citizenship	Colorado
Address	2040 Third Road Wisner, NE 68791 UNITED STATES		

Attorney information	Cynthia E. Kernick, Esq. Reed Smith LLP P.O. Box 488 Pittsburgh, PA 15230-0488 UNITED STATES ptoipinbox@reedsmith.com Phone:412-288-4176		
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### Registration Subject to Cancellation

Registration No	3007997	Registration date	10/18/2005
Registrant	Augenbraun & Associates 4695 Main Street Bridgeport, CT 06606 UNITED STATES		
Goods/Services Subject to Cancellation	Class 003. First Use: 2004/11/02 , First Use In Commerce: 2004/11/02 Goods/Services: cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries		

Attachments	07079uscnpetitioncancel.pdf ( 34 pages )(7851539 bytes )
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Signature	/Cynthia E. Kernick/
Name	Cynthia E. Kernick, Esq.
Date	06/11/2007

Cynthia E. Kernick, Esq.  
Direct Phone: 412.288.4175  
Email: ckernick@reedsmith.com

Reed Smith LLP  
435 Sixth Avenue  
Pittsburgh, PA 15219-1886  
412.288.3131  
Fax 412.288.3063

June 8, 2007

**VIA ESTTA**

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

Re: Cancellation No. (not yet assigned)  
Monty D Cosmetics, LLC v. Augenbraun & Associates  
Our Ref.: 07-079-US-CN

Dear Commissioner:

Enclosed are the following for filing in connection with the above-referenced new cancellation proceeding:

1. A Petition for Cancellation of Registration No. 3,007,997 with Exhibits A-E.

Authorization to charge a credit card in the amount of \$300.00, representing the cancellation petition fee, has been provided. The Director is authorized to charge any additional payment due in connection with this submission, or to credit any overpayment to Deposit Account No. 18-0582.

Very truly yours,

REED SMITH LLP



By

Cynthia E. Kernick  
Attorney for Petitioner



**Petitioner's Use and Prior Rights in "FULL THROTTLE"**

3. Petitioner began use of its "FULL THROTTLE" mark on goods described as "cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries" at least as early as on or about November 2, 2004.

4. Petitioner has expended significant effort and resources in advertising and promoting its goods as described in its trademark application under its "FULL THROTTLE" mark.

5. Petitioner has used its "FULL THROTTLE" mark to distinguish its goods from all other goods of a similar type, and has thereby acquired substantial public recognition of and valuable goodwill in this mark.

6. As a result of the foregoing activities and public recognition, Petitioner's "FULL THROTTLE" mark has become an asset of immeasurable importance and value to Petitioner.

7. Petitioner's "FULL THROTTLE" mark is not now and has never been abandoned. Petitioner filed a use-based federal trademark application for its "FULL THROTTLE" mark for goods described as "cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries," which application was given a filing date of April 5, 2007, and Serial No. 77/149,621; a copy of said application as filed being attached hereto as **Exhibit A**.

**Respondent's Fraudulent Statements**

8. Although Respondent is the listed registrant of U.S. Trademark Registration No. 3,007,997 for the mark "FULL THROTTLE" for goods described as "cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries" in International Class 3, Respondent does not own and never has owned any trademark rights to the "FULL

THROTTLE” mark for those goods described in the noted registration and thus fraudulently obtained said registration; a copy of said registration certificate for U.S. Trademark Registration No. 3,007,997 being attached hereto as **Exhibit B**.

9. Upon information and belief, on or about May 13, 2004, Respondent, without consent or license from Petitioner, filed with the United States Patent and Trademark Office an intent-to-use application for the mark “FULL THROTTLE” for goods described as “cosmetics, namely, fragrances, colognes, perfumes, men’s deodorants and toiletries,” a copy of said federal intent-to-use application being attached hereto as **Exhibit C**, said application having been assigned Serial No. 78/418,116.

10. Upon information and belief, on or about May 13, 2004, Respondent, without consent or license from Petitioner, fraudulently stated in its application that it owned and had a bona fide intention to use the mark “FULL THROTTLE” in connection with “cosmetics, namely, fragrances, colognes, perfumes, men’s deodorants and toiletries.”

11. Upon information and belief, on or about July 28, 2005, Respondent without consent or license from Petitioner, filed a Statement of Use in its trademark application fraudulently alleging that it was currently using, had first used and had first used in commerce the “FULL THROTTLE” mark in connection with “cosmetics, namely, fragrances, colognes, perfumes, men’s deodorants and toiletries” since at least as early as November 2, 2004, a copy of said Statement of Use being attached hereto as **Exhibit D**.

12. Upon information and belief, on or about July 28, 2005, Respondent without consent or license from Petitioner, filed a specimen fraudulently showing its use of the mark “FULL THROTTLE,” said specimen comprising a digital photograph of the frontal view only of Petitioner’s packaging for a 1 oz. bottle of men’s cologne, a copy of said specimen being attached hereto as **Exhibit E**.

13. Upon information and belief, Respondent has never sold or offered for sale any products on or in connection with the "FULL THROTTLE" mark despite its contrary declaration in the July 28, 2005 Statement of Use.

14. On information and belief, the statements of Respondent made in the declaration of use and ownership submitted to the United States Patent and Trademark Office are false and, as a result, Respondent's registration of "FULL THROTTLE" was fraudulently obtained and subject the registration to cancellation.

15. The continued existence of the fraudulently obtained registration of Respondent's "FULL THROTTLE" mark on the Principle Register will inexorably have an adverse effect upon the value of Petitioner's "FULL THROTTLE" mark and the ability of Petitioner to obtain a registration of its "FULL THROTTLE" mark. If this cancellation is not sustained, Petitioner's "FULL THROTTLE" mark will be deprived of the full distinctiveness to which it is entitled, because Respondent's continued fraudulently obtained registration of the "FULL THROTTLE" mark will dilute Petitioner's marks' goods identification, and, thus, will result in injury and damage to Petitioner's business, all within the prohibition of Section 2 of the Trademark Act of 1946 (15 U.S.C. §1052(d)), as amended.

16. This Petition for Cancellation is being filed within five (5) years from the date of registration of Respondent's mark.

WHEREFORE, Petitioner, based on the foregoing, requests that U.S. Trademark Registration No. 3,007,997 issued October 18, 2005, for the mark "FULL THROTTLE" on the Principal Register of the United States Patent and Trademark Office be canceled and that this cancellation petition be sustained.

Petitioner hereby appoints Cynthia E. Kernick., a member of the Pennsylvania Bar and of the firm of Reed Smith LLP, P.O. Box 488, Pittsburgh, Pennsylvania 15230-0488, as

its representative and attorney with full powers of substitution and revocation, to prosecute this cancellation proceeding and to transact all business in and before the United States Patent and Trademark Office in connection therewith.

The Commissioner has been authorized to charge the filing fee for this Petition for Cancellation, and any associated fees, to a credit card.

Respectfully submitted,

MONTY D COSMETICS, LLC, Petitioner

By 

Cynthia E. Kernick  
PA Bar I.D. 43912  
Reed Smith LLP  
P.O. Box 488  
Pittsburgh, PA 15219-0488  
(412) 288-4176  
ptoipinbox@reedsmith.com

Attorney for Petitioner

Dated: June 8, 2007

# EXHIBIT A

## Trademark/Service Mark Application, Principal Register

Serial Number: 77149621

Filing Date: 04/05/2007

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77149621
<b>MARK INFORMATION</b>	
*MARK	FULL THROTTLE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	FULL THROTTLE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	MONTY D. COSMETICS LLC
*STREET	2040 Third Road
*CITY	Wisner
*STATE (Required for U.S. applicants)	Nebraska
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	68791
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	LIMITED LIABILITY COMPANY
*STATE/COUNTRY WHERE LEGALLY ORGANIZED	Colorado
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	003
DESCRIPTION	COSMETICS, NAMELY, FRAGRANCES, COLOGNES, PERFUMES, MEN'S DEODORANTS AND TOILETRIES
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/02/2004
FIRST USE IN COMMERCE DATE	At least as early as 11/02/2004
SPECIMEN	\\TICRS2\EXPORT12\771\496\77149621\xml1\APP0003.JP

FILE NAME(S)	G
SPECIMEN DESCRIPTION	DIGITAL PHOTOGRAPH
<b>ADDITIONAL STATEMENTS SECTION</b>	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 3007997.
<b>ATTORNEY INFORMATION</b>	
NAME	Cynthia E. Kernick, Esq.
ATTORNEY DOCKET NUMBER	07-079-US
FIRM NAME	Reed Smith LLP
STREET	P.O. Box 488
CITY	Pittsburgh
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	15230-0488
PHONE	412-288-4176
FAX	412-288-3063
EMAIL ADDRESS	ptoipinbox@reedsmith.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Frederick H. Colen; Barry J. Coyne; Kirsten R. Rydstrom; Maria N. Bernier; Louis A. DePaul; Charles H. Dougherty, Jr.; Robert D. Kucler; Joshua S. Bish; Andrew E. Falsetti; Richard T. Ting; Kevin S. Katona and Lori S. Rardon
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Cynthia E. Kernick, Esq.
FIRM NAME	Reed Smith LLP
STREET	P.O. Box 488
CITY	Pittsburgh
STATE	Pennsylvania
COUNTRY	United States
ZIP/POSTAL CODE	15230-0488
PHONE	412-288-4176
FAX	412-288-3063
EMAIL ADDRESS	ptoipinbox@reedsmith.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/Jeffrey Dinklage/
SIGNATORY'S NAME	Jeffrey Dinklage
SIGNATORY'S POSITION	President
DATE SIGNED	04/05/2007
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Apr 05 14:55:44 EDT 2007
TEAS STAMP	USPTO/BAS-209.117.86.23-2 0070405145544757140-77149 621-3707e87343880488be74f c811ff82641cd3-CC-46-2007 0405142316824670

PT13 Form 1472 (Rev. 9/2005)  
Form No. 9651-9809 (Rev. 10/2005)

### Trademark/Service Mark Application, Principal Register

**Serial Number: 77149621**

**Filing Date: 04/05/2007**

#### To the Commissioner for Trademarks:

**MARK:** FULL THROTTLE (Standard Characters, see mark)

The literal element of the mark consists of FULL THROTTLE. The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, MONTY D. COSMETICS LLC, a limited liability company legally organized under the laws of Colorado, having an address of 2040 Third Road, Wisner, Nebraska, United States, 68791, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 003: COSMETICS, NAMELY, FRAGRANCES, COLOGNES, PERFUMES, MEN'S DEODORANTS AND TOILETRIES

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 003, the mark was first used at least as early as 11/02/2004, and first used in commerce at least as early as 11/02/2004, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) DIGITAL PHOTOGRAPH.

Specimen File1

The applicant claims ownership of U.S. Registration Number(s) 3007997.

The applicant hereby appoints Cynthia E. Kernick, Esq. and Frederick H. Colen; Barry J. Coyne; Kirsten R. Rydstrom; Maria N. Bernier; Louis A. DePaul; Charles H. Dougherty, Jr.; Robert D. Kucler; Joshua S. Bish; Andrew E. Falsetti; Richard T. Ting; Kevin S. Katona and Lori S. Rardon of Reed Smith LLP, P.O. Box 488, Pittsburgh, Pennsylvania, United States, 15230-0488 to submit this application on behalf of the applicant. The attorney docket/reference number is 07-079-US.

Correspondence Information:

Cynthia E. Kernick, Esq.  
P.O. Box 488  
Pittsburgh, Pennsylvania 15230-0488  
412-288-4176(phone)  
412-288-3063(fax)  
ptoipinbox@reedsmith.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jeffrey Dinklage/ Date Signed: 04/05/2007

Signatory's Name: Jeffrey Dinklage

Signatory's Position: President

RAM Sale Number: 46

RAM Accounting Date: 04/06/2007

Serial Number: 77149621

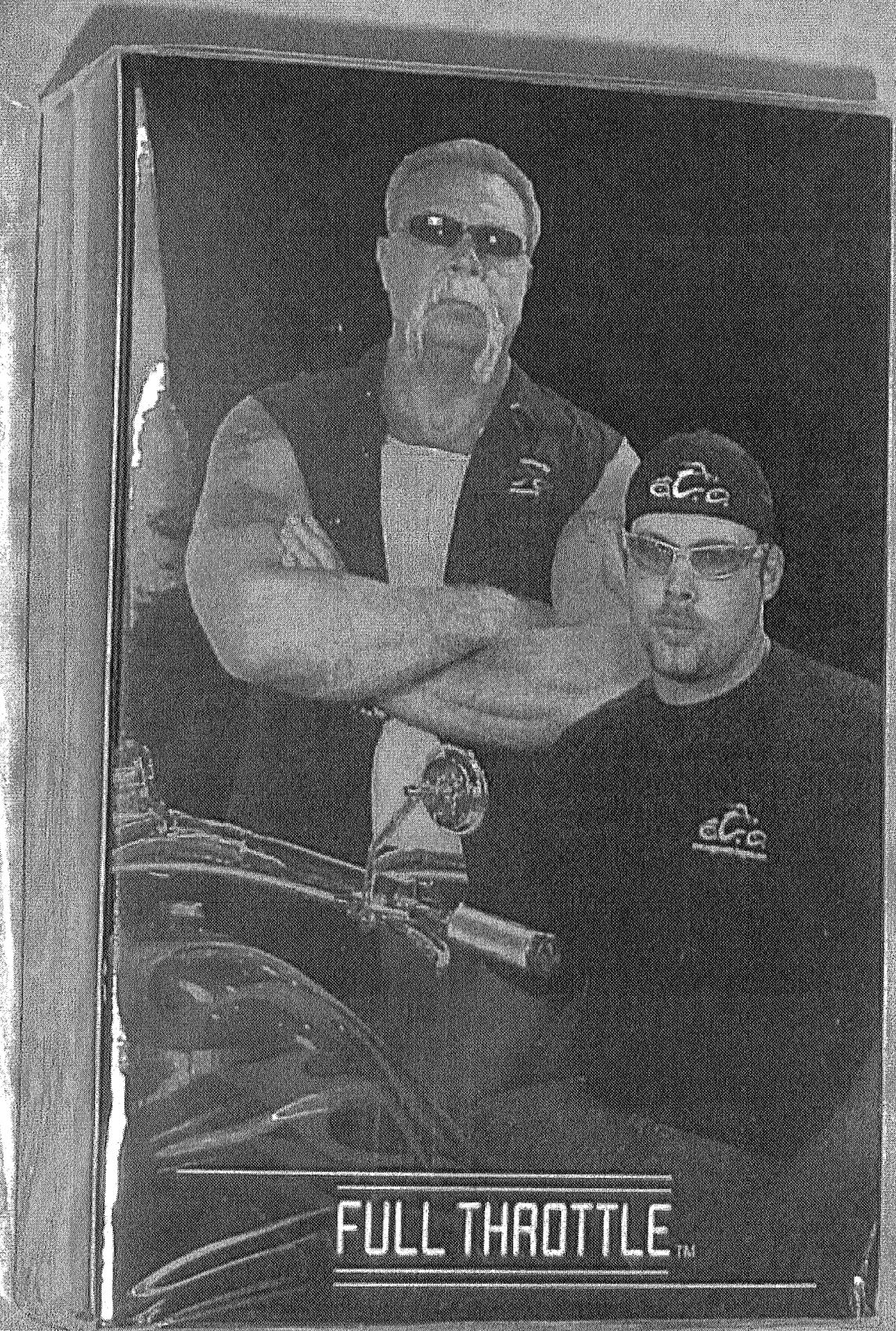
Internet Transmission Date: Thu Apr 05 14:55:44 EDT 2007

TEAS Stamp: USPTO/BAS-209.117.86.23-2007040514554475

7140-77149621-3707e87343880488be74fc811f

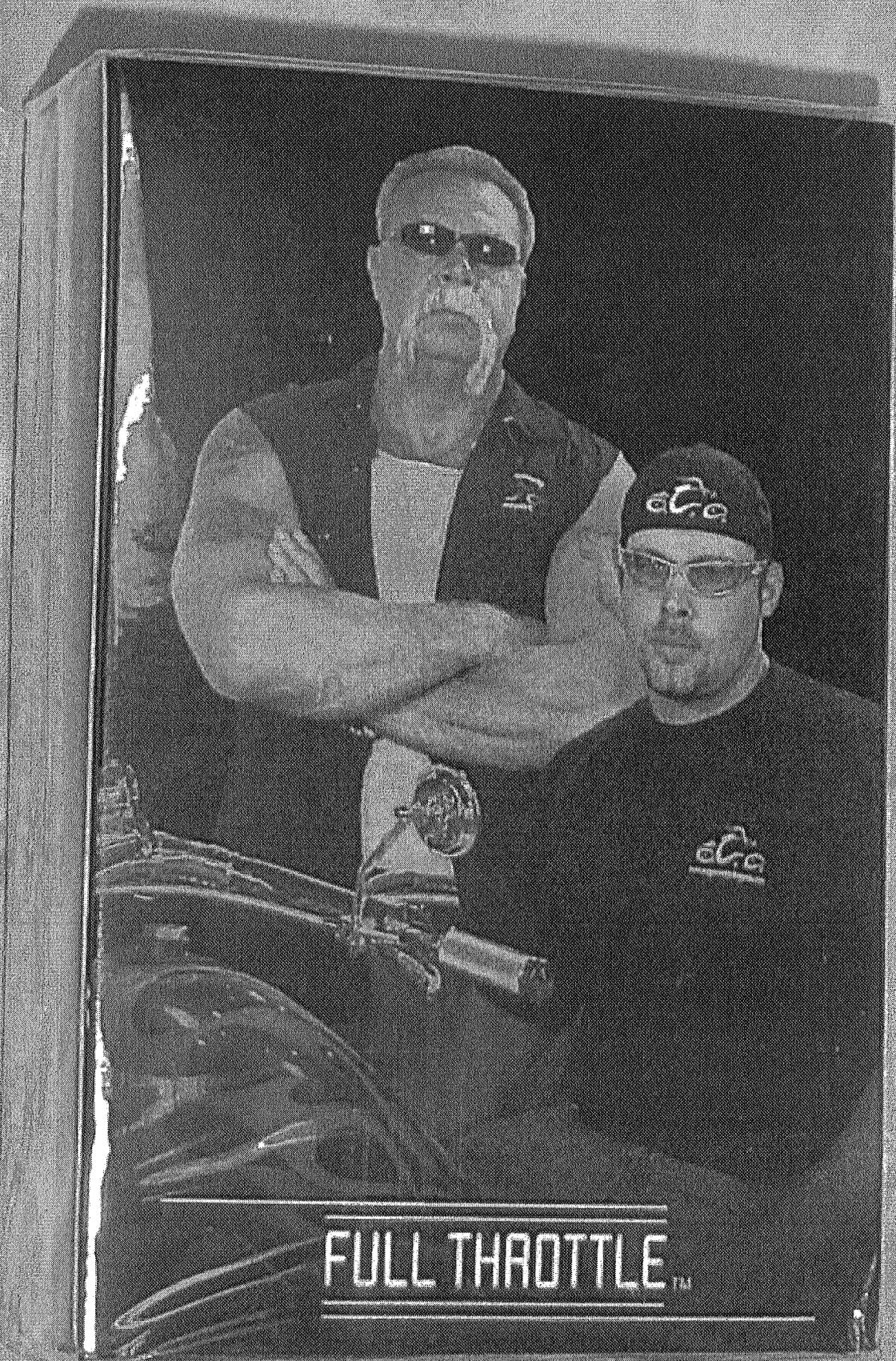
f82641cd3-CC-46-20070405142316824670

**FULL THROTTLE**



FULL THROTTLE™

# FULL THROTTLE



FULL THROTTLE™

## EXHIBIT B

**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 3,007,997**

**Registered Oct. 18, 2005**

**TRADEMARK  
PRINCIPAL REGISTER**

**FULL THROTTLE**

AUGENBRAUN & ASSOCIATES (CONNECTICUT  
LTD LIAB CO)  
4697 MAIN STREET  
BRIDGEPORT, CT 06606

FOR: COSMETICS, NAMELY, FRAGRANCES,  
COLOGNES, PERFUMES, MEN'S DEODORANTS  
AND TOILETRIES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50,  
51 AND 52).

FIRST USE 11-2-2004; IN COMMERCE 11-2-2004.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

SN 78-418,116, FILED 5-13-2004.

BARBARA A. LOUGHRAN, EXAMINING ATTOR-  
NEY

## EXHIBIT C

## Trademark/Service Mark Application, Principal Register

Serial Number: 78418116

Filing Date: 05/13/2004

The table below presents the data as entered.

Input Field	Entered
<b>MARK SECTION</b>	
MARK	FULL THROTTLE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	FULL THROTTLE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>OWNER SECTION</b>	
NAME	Augenbraun & Associates
STREET	4697 Main Street
CITY	Bridgeport
STATE	CT
ZIP/POSTAL CODE	06606
COUNTRY	USA
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	LIMITED LIABILITY COMPANY
STATE/COUNTRY UNDER WHICH ORGANIZED	Connecticut
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	003
DESCRIPTION	cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries
FILING BASIS	Section 1(b)
<b>SIGNATURE SECTION</b>	
SIGNATURE	/THA4667/
SIGNATORY NAME	Terrence H. Augenbraun
SIGNATORY DATE	05/13/2004
SIGNATORY POSITION	President
<b>PAYMENT SECTION</b>	

NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335
<b>ATTORNEY</b>	
NAME	Abigail Rubinstein
FIRM NAME	BAKER BOTTS L.L.P.
STREET	30 Rockefeller Plaza 43rd Floor
CITY	New York
STATE	NY
ZIP/POSTAL CODE	10112-4498
COUNTRY	USA
PHONE	212.408.2500
FAX	212.408.2501
EMAIL	nytmdpt@bakerbotts.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	L12793 075551.0101
OTHER APPOINTED ATTORNEY(S)	Robert Neuner, Bradley B. Geist, Russell H. Falconer, Doreen L. Costa, Robert C. Scheinfeld, John A. Fogarty, Jr., Rochelle K. Seide, Gary M. Butter, Lisa B. Kole, Neil P. Sirota, Paul A. Ragusa, William P. Nix, Steven R. Gustavson, Paul J. Reilly, Karen Wuertz, Carmella L. Stephens, Jeffrey D. Sullivan, Paul D. Ackerman, Robert M. Wasnofski, Jr., Abigail A. Rubinstein, Kimberly McGraw, Gary Abelev, Eric Roman, Michael McNamara, Walter M. Egbert, III, Eliot D. Williams, Robert Maier, Manu J. Tejwani, Peter J. Shen, Michael Ciraola, David Loretto, Noera Ayaz and Gregory Poehler.
<b>CORRESPONDENCE SECTION</b>	
NAME	Abigail Rubinstein
FIRM NAME	BAKER BOTTS L.L.P.
STREET	30 Rockefeller Plaza 43rd Floor
CITY	New York
STATE	NY
ZIP/POSTAL CODE	10112-4498
COUNTRY	USA
PHONE	212.408.2500
FAX	212.408.2501
EMAIL	nytmdpt@bakerbotts.com
AUTHORIZED EMAIL COMMUNICATION	Yes
<b>FILING INFORMATION</b>	

SUBMIT DATE	Thu May 13 14:55:23 EDT 2004
TEAS STAMP	USPTO/BAS-381124254-20040 513145523117300-78418116- 200939cee28a666b34d48827d 761da8164-DA-25-200405131 15330096925

PTO Form 1472 (Rev. 6/2003)  
USPTO Form 1472 (Rev. 6/2003)

## Trademark/Service Mark Application, Principal Register

Serial Number: 78418116

Filing Date: 05/13/2004

### To the Commissioner for Trademarks:

**MARK:** (Standard Characters, see mark)

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The literal element of the mark consists of FULL THROTTLE.

The applicant, Augenbraun & Associates, a limited liability company organized under the laws of Connecticut, residing at 4697 Main Street, Bridgeport, CT, USA, 06606, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 003: cosmetics, namely, fragrances, colognes, perfumes, men's deodorants and toiletries

The applicant hereby appoints Abigail Rubinstein and Robert Neuner, Bradley B. Geist, Russell H. Falconer, Doreen L. Costa, Robert C. Scheinfeld, John A. Fogarty, Jr., Rochelle K. Seide, Gary M. Butter, Lisa B. Kole, Neil P. Sirota, Paul A. Ragusa, William P. Nix, Steven R. Gustavson, Paul J. Reilly, Karen Wuertz, Carmella L. Stephens, Jeffrey D. Sullivan, Paul D. Ackerman, Robert M. Wasnofski, Jr., Abigail A. Rubinstein, Kimberly McGraw, Gary Abelev, Eric Roman, Michael McNamara, Walter M. Egbert, III, Eliot D. Williams, Robert Maier, Manu J. Tejwani, Peter J. Shen, Michael Ciraola, David Loretto, Noera Ayaz and Gregory Poehler, of BAKER BOTTS L.L.P., 30 Rockefeller Plaza 43rd Floor, New York, NY, USA, 10112-4498 to submit this application on behalf of the applicant. The attorney docket/reference number is L12793 075551.0101.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: [nytmcpt@bakerbotts.com](mailto:nytmcpt@bakerbotts.com).

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

#### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /THA4667/ Date: 05/13/2004

Signatory's Name: Terrence H. Augenbraun

Signatory's Position: President

Mailing Address:

Abigail Rubinstein  
30 Rockefeller Plaza 43rd Floor  
New York, NY 10112-4498

RAM Sale Number: 25

RAM Accounting Date: 05/14/2004

Serial Number: 78418116

Internet Transmission Date: Thu May 13 14:55:23 EDT 2004

TEAS Stamp: USPTO/BAS-381124254-20040513145523117300

-78418116-200939cee28a666b34d48827d761da

8164-DA-25-20040513115330096925

**FULL THROTTLE**

**FULL THROTTLE**

## EXHIBIT D

## Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78418116
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 113
<b>NOTICE OF ALLOWANCE</b>	YES
<b>EXTENSION OF USE</b>	NO
<b>REQUEST TO DIVIDE</b>	NO
<b>MARK SECTION</b>	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	FULL THROTTLE
<b>OWNER SECTION (no change)</b>	
<b>ATTORNEY SECTION (current)</b>	
NAME	Abigail Rubinstein
DOCKET NUMBER	L12793 07555
<b>ATTORNEY SECTION (proposed)</b>	
NAME	Robert S. Weisbein and Abigail Rubinstein
DOCKET NUMBER	20258/3201009-US0
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	003
GOODS AND/OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	11/02/2004
FIRST USE IN COMMERCE DATE	11/02/2004
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT9\IMAGEOUT9\784\181\78418116\xml2\SOU0002.JPG
SPECIMEN DESCRIPTION	photograph of the packaging
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
SUBTOTAL AMOUNT	100
TOTAL AMOUNT	100
<b>SIGNATURE SECTION</b>	
	Signature

SIGNATORY NAME	_____
SIGNATORY POSITION	_____
<b>FILING INFORMATION</b>	
SUBMIT DATE	Thu Jul 28 13:41:31 EDT 2005
TEAS STAMP	USPTO/SOU-38.112.44.2-200 50728134131419011-7841811 6-250a1906ee598fc43a9361e df858496dbb-CC-1463-20050 728133816393348

PTOL Form 1051 (Rev. 8/2003)  
USPTO No. 001-0024 (USP. 11/02/2004)

**Trademark/Service Mark Statement of Use  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** FULL THROTTLE  
**SERIAL NUMBER:** 78418116

This Allegation of Use is being filed after a Notice of Allowance has issued.

The applicant, Augenbraun & Associates, having an address of 4697 Main Street, Bridgeport, Connecticut United States 06606, is using or is using through a related company or licensee the mark in commerce on or in connection with the goods and/or services as follows:

For International Class: 003, the applicant, or the applicant's related company or licensee, is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance.  
The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 11/02/2004, and first used in commerce at least as early as 11/02/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) photograph of the packaging.  
Specimen-1

The applicant hereby appoints Robert S. Weisbein and Abigail Rubinstein to submit this Trademark/Service Mark Statement of Use on behalf of the applicant. The attorney docket/reference number is 20258/3201009-US0.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for 1 class.

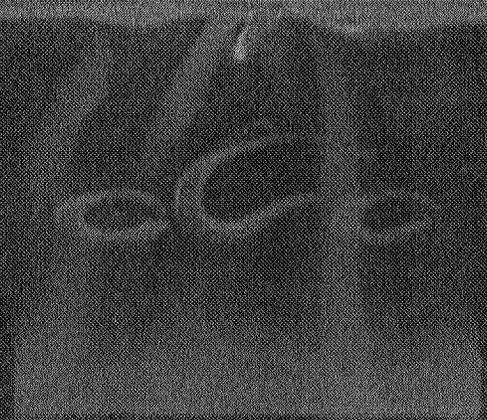
**Declaration**

Signatory's Name: \_\_\_\_\_  
Signatory's Position: \_\_\_\_\_  
Signatory File Signature

RAM Sale Number: 1463  
RAM Accounting Date: 07/28/2005

Serial Number: 78418116

Internet Transmission Date: Thu Jul 28 13:41:31 EDT 2005  
TEAS Stamp: USPTO/SOU-38.112.44.2-200507281341314190  
11-78418116-250a1906ee598fc43a9361edf858  
496dbb-CC-1463-20050728133816393348  
[Go Back](#)



ORANGE COUNTY CHOPPERS

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FULL THROTTLE

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COLOGNE FOR MEN

1 FL. OZ. 30 mL

**Declaration**

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: 

Date: 7/06/05

Signatory Name: T. H. AUGENBRAUN

Signatory Position: PRESIDENT

**FEE RECORD SHEET**

**Serial Number:** 78418116



**RAM Sale Number:** 1463

**Total Fees:** \$100

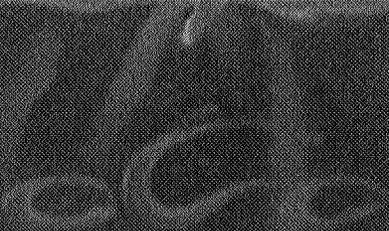
**RAM Accounting Date:** 20050728

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20050728	\$100	1	\$100

**Transaction Date:** 20050728



## EXHIBIT E



ORANGE COUNTY CHOPPERS

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FULL THROTTLE

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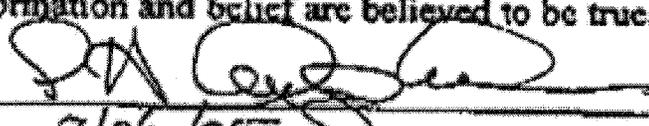
COLOGNE FOR MEN

1 FL. OZ. 30 mL

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Signature: 

Date: 7/06/05

Signatory Name: T. H. AUGENBRAUN

Signatory Position: PRESIDENT