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STUART E. BECK, P.C.

D. BRUCE HANES
OF COUNSEL

April 18, 2008

Commissioner for Trademarks
PO BOX 1451
Alexandria, VA 22313-1451

79020243
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Re: Jules Jurgensen/ Rhapsody, Inc.
v. Peter Baumberger
Cancellation No. 92-048,667
622-05US

#~~792643~~

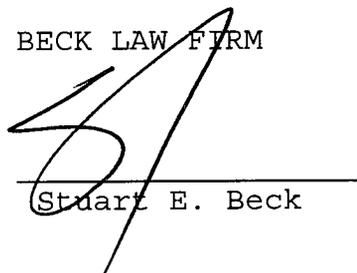
Dear Sir:

Enclosed for filing at the Patent and Trademark Office are the documents described below.

Kindly credit any overpayment or charge any underpayment of the fee to my deposit Account No. 02-1652. A duplicate copy of this letter is enclosed.

Very truly yours,

THE BECK LAW FIRM

By: 
Stuart E. Beck

Encl:
First Amended Petition to Cancel
Postcard



04-25-2008

U.S. Patent & TMOic/TM Mail Rcpt Dt. #34

An Intellectual Property Law Firm

IN THE UNITED STATES PATENT AND MARK OFFICE
BEFORE THE MARK TRIAL AND APPEAL BOARD

JULES JURGENSEN/RHAPSODY, INC. :
: Cancellation No. 92-048,667
Petitioner :
: Registration No. 3,181,224
: Mark: URBAN JÜRGENSEN
v. :
: PETER BAUMBERGER :
: Respondent :

FIRST AMENDED PETITION TO CANCEL

PETITIONER, Jules Jurgensen/Rhapsody, Inc., a Pennsylvania corporation whose address is 101 West City Avenue, Bala Cynwyd, Pennsylvania 19004, believes that it is being damaged by Registration No. 3,181,224 for URBAN JÜRGENSEN and petitions to cancel the same.

The grounds for this Petition to Cancel are as follows:

1. Petitioner is in the business of manufacturing and selling jewelry made of stainless steel, precious metals and metal alloys,

CERTIFICATE OF SERVICE
I CERTIFY THAT A COPY OF THIS PAPER WAS SENT BY FIRST
CLASS MAIL THIS 12TH DAY OF APRIL
2000 POSTAGE PREPAID TO THE LAST KNOWN ADDRESS
OF THE ATTORNEY OF RECORD FOR EACH OF THE PARTIES TO
THIS ACTION.

Shelley E. Bell

including watches and parts for watches, boxes for watches, watch straps and spring bars, and identification bracelets (GOODS).

2. Petitioner's GOODS have been marked with its distinctive mark, URBAN JÜRGENSEN, since at least as early as 1974.

3. Petitioner's GOODS are sold throughout the United States.

4. Petitioner's mark, URBAN JÜRGENSEN, as identifying Petitioner's goods was registered as registration 2,153,240 which was granted on April 28, 1998.

5. Registration 2,153,240 for URBAN JÜRGENSEN claims a first date of use of May 7, 1991.

6. Registration 2,153,240 for URBAN JÜRGENSEN was cancelled for failure to file the required Declaration of Use under Section 8 of the Lanham Act.

7. The failure to file the Declaration of Use under Section 8 was inadvertent since Petitioner was and is actually using the mark.

8. Petitioner filed a fresh application to register its mark URBAN JÜRGENSEN as identifying its GOODS on December 26, 2007, as application 76/685,220.

9. Application 76/685,220 for URBAN JÜRGENSEN claims a first date of use of 1974.

10. Petitioner's GOODS are marked with the distinctive mark, JULES JÜRGENSEN.

11. Petitioner's GOODS have been marked with its distinctive mark, JULES JÜRGENSEN, by petitioner and its predecessors in title, since at least as early as 1835.

12. Petitioner's GOODS identified by its JULES JÜRGENSEN mark are sold by petitioner throughout the United States.

13. Petitioner's GOODS as identified by its marks, URBAN JÜRGENSEN and JULES JÜRGENSEN, have a well deserved reputation for excellence and are highly regarded in the trade and by retail customers.

14. Petitioner advertises its URBAN JÜRGENSEN and JULES JERGENSEN goods as being from THE HOUSE OF JÜRGENSEN.

15. Respondent is identified as the owner of URBAN JÜRGENSEN, Registration No. 3,181,224, registered on the Principal Register on December 5, 2006, which identifies:

Precious metals and their alloys; goods made from or plated with precious metals, namely, watches and watchbands; jewelry, precious stones; timepieces and chronometric instruments, namely chronometers, wristwatches, cases for clock and watch-making; clock cabinets; movements for clocks and watches.

16. Respondent's Registration is based on International Registration No. 0,794,139 which was registered December 3, 2002.

17. On information and belief, the markets which are the targets of the goods identified by Petitioner's and Respondent's marks are identical or are closely related in that both markets relate to jewelry made of stainless steel, precious metals and metal alloys, including watches and parts for watches, boxes for watches, watch straps and spring bars, and identification bracelets.

18. The customers for the goods identified by Petitioner's and Respondent's marks are identical or are virtually identical, namely, distributors and retailers, and consumers.

19. On information and belief, both Petitioner and Respondent use the same or similar media to advertise their GOODS as identified by their respective marks.

20. As between Petitioner and Respondent, Petitioner is the first user of the mark.

21. As between Petitioner and Respondent, Petitioner has the better right to be registered.

22. The existence of Respondent's Registration gives the imprimatur of lawful use of its mark by Respondent.

23. The existence of Respondent's Registration harms Petitioner since the public will believe that Respondent is the lawful owner of the mark and that Petitioner is infringing respondent's mark which is the exact opposite of the truth.

24. On information and belief, on the date that Respondent executed the application which resulted in its Registration No. 3,181,224, it knew that Petitioner had been using URBAN JÜRGENSEN and JULES JÜRGENSEN on its GOODS, all in violation of 18 U.S.C. §1001.

WHEREFORE, Petitioner is being irreparably harmed by the existence of Petitioner's Registration; and accordingly prays that Registration No. 3,181,224 for URBAN JÜRGENSEN be cancelled and that this Petition for Cancellation be sustained.

Petitioner hereby appoints:

Stuart E. Beck, Esquire, with offices at Stuart E. Beck, P.C., Suite 1429 Walnut Street, Suite 900, Philadelphia, PA 19102 (Tel. No. 215-568-6000; Fax: 215-568-0403; Email: BeckPatent@aol.com) its attorneys with full power to prosecute this Petition to Cancel, to transact all relevant business concerning this Petition to Cancel with the United States Patent and Mark Office and in the United States courts and to receive all official communications in connection with this Petition to Cancel.

Please direct all correspondence to

Stuart E. Beck, Esquire
The Beck Law Firm
1429 Walnut Street, Suite 900
Philadelphia, PA 19102
Email: BeckPatent@aol.com

The undersigned states that he is the president of Petitioner and is authorized to execute this Petition to Cancel, that he has read and signed this First Amended Petition to Cancel and knows its contents, and that all statements made herein to his own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like are made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Petition to Cancel or any decision resulting therefrom.

Jules Jurgensen/Rhapsody, Inc.

Date: 4/3/08

By: 
Morton Clayman,
President