

ESTTA Tracking number: **ESTTA183844**

Filing date: **12/31/2007**

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	Turnils (UK) Limited		
Entity	Corporation	Citizenship	United Kingdom
Address	Inchinnan Business Park 10 Fountain Crescent Renfrew, PA4 9RE UNITED KINGDOM		

Attorney information	Ester Martín Maillaro, Scott S. Havlick Holland & Hart LLP 555 Seventeenth Street, Suite 3200 P.O. Box 8749 DENVER, CO 80201 UNITED STATES docket@hollandhart.com, emmaillaro@hollandhart.com Phone:303.473.2700
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Registration Subject to Cancellation

Registration No	3232589	Registration date	04/24/2007
Registrant	A. K. Draft Seal Ltd. 7470 Buller Avenue Burnaby, BC, V5J 4S5 CANADA		

Goods/Services Subject to Cancellation

Class 006. First Use: 2001/12/11 First Use In Commerce: 2002/02/08 All goods and services in the class are cancelled, namely: Hardware systems for exterior folding doors and windows consisting of metal tracks, sills, weathersealing, and hardware, namely, hinges, flushbolts, hangers, guides, rollers, roller bearings, carriages, pivots, channels, extrusions, carriers, and hardware and related componentry thereof and therefor; retractable metal flyscreens for windows
Class 019. First Use: 2001/12/11 First Use In Commerce: 2002/02/08 All goods and services in the class are cancelled, namely: Hardware systems for exterior folding doors and windows consisting of non-metal sills, weathersealing, and hardware, namely, hangers, guides, pivots, channels, rollers, carriages, carriers, and hardware and related componentry thereof and therefor; retractable non-metal flyscreens for windows

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	188958	Application Date	05/08/1923
Registration Date	09/09/1924	Foreign Priority	NONE

		Date	
Word Mark	ECLIPSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U013 (International Class 006). First use: First Use: 1912/06/03 First Use In Commerce: 1912/06/03 Window-Shade or Window-Blind Rollers		

Attachments	71180335#TMSN.jpeg (1 page)(bytes) Petition for Cancellation.pdf (3 pages)(152554 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ester Martín Maillaro/
Name	Ester Martín Maillaro
Date	12/31/2007

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

Turnils Limited,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	Registration No. 3,232,589
A.K. Draft Seal Ltd.,)	Mark: ECLIPSE ARCHITECTURAL
)	(stylized)
)	Classes: 6, 19
Respondent.)	Registration Date: April 24, 2007

**PETITION FOR CANCELLATION OF
REGISTRATION NO. 3,232,589**

Petitioner Turnils Limited (hereinafter "Petitioner"), believes that it is being damaged by and will continue to be damaged by the continued registration of U.S. Trademark Registration No. 3,232,589 for the mark ECLIPSE ARCHITECTURAL (stylized) in classes 6 covering "*hardware systems for exterior folding doors and windows consisting of metal tracks, sills, weathersealing, and hardware, namely, hinges, flushbolts, hangers, guides, rollers, roller bearings, carriages, pivots, channels, extrusions, carriers, and hardware and related componentry thereof and therefor; retractable metal flyscreens for windows,*" and in Class 19 for "*hardware systems for exterior folding doors and windows consisting of non-metal sills, weathersealing, and hardware, namely, hangers, guides, pivots, channels, rollers, carriages, carriers, and hardware and related componentry thereof and therefor; retractable non-metal flyscreens for windows*" and through its attorneys, petitions to cancel the registration.

In support of this Petition for Cancellation, Petitioner alleges as follows:

1. Petitioner is a United Kingdom corporation with its principal place of business at Inchinnan Business Park, 10 Fountain Crescent Renfrew UNITED KINGDOM PA4 9RE.
2. On information and belief, Respondent A.K. Draft Seal Ltd. is a Canadian corporation, with offices at 47 Leeder Street Coquitlam, B.C. V3K 3V5 Canada (hereinafter "Respondent").
3. In an Office Action dated July 2, 2007, the U.S. Patent and Trademark Office ("PTO") refused registration of Petitioner's Application Serial No. 78/780,542

for the mark ECLIPSE covering “interior window shutters; vertical window blinds,” under Section 2(d) of the Trademark Act, on the alleged ground that it is confusingly similar to the mark set forth in Respondent’s Registration No. 3,232,589.

4. On August 22, 2003, Petitioner acquired by assignment (recorded at Reel/Frame 2703:0244) U.S. Registration No. 0,188,958 for the mark ECLIPSE (Stylized) for “*Window-Shades or Window-Blind Rollers*” which registered on September 9, 1924.

5. Therefore, Petitioner has an earlier registration for the ECLIPSE mark.

6. According to the USPTO’s argument that there is a likelihood of confusion between Petitioner’s ECLIPSE mark and Respondent’s ECLIPSE ARCHITECTURAL (stylized) mark, likewise Respondent’s mark should not have registered over Petitioner’s earlier ECLIPSE (stylized) registration.

7. Continuously since June 1912, Petitioner or the prior owners of Registration No. 0,188,958, either themselves or through their licensees, have used the term ECLIPSE to identify window shades or window blind rollers.

8. “ECLIPSE” is a valuable and important asset to Petitioner.

9. Respondent applied to register the ECLIPSE ARCHITECTURAL (stylized) mark via application Serial No. 78/724,130 on September 30, 2005.

10. In application Serial No. 78/724,130, Respondent claims a first use in commerce date of February 8, 2002 for the mark ECLIPSE ARCHITECTURAL (stylized).

11. Consequently, Petitioner had prior use of its ECLIPSE mark.

12. Respondent adopted and used the mark sought to be canceled without the permission or consent of Petitioner.

13. Petitioner is and will continue to be damaged by the continued registration of Registration No. 3,232,589 because the USPTO has concluded it prevents Petitioner from registering ECLIPSE under Section 2(d).

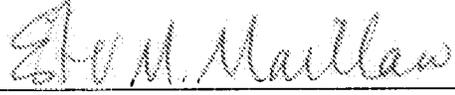
WHEREFORE, Petitioner respectfully requests that this petition be granted and that Registration No. 3,232,589 be canceled.

This Petition is submitted electronically together with an electronic payment in the amount of \$600. If the electronic filing fee is found to be deficient for any reason, please charge Deposit Account No. 08-2623.

Dated: December 31, 2007.

Respectfully submitted,

For TURNILS LIMITED

By: _____

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