

ESTTA Tracking number: **ESTTA187713**

Filing date: **01/21/2008**

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	Keren Kayemet Leisrael Ltd. (aka Keren Kayemeth Leisrael)		
Entity	Limited Company	Citizenship	Israel
Address	1 Keren Kayemeth Leisrael St. Jerusalem, 91072 ISRAEL		

Attorney information	Brett G. Corbly King & Schickli, PLLC 247 N. Broadway Lexington, KY 40507 UNITED STATES brett@iplaw1.net Phone:859-252-0889
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Registrations Subject to Cancellation

Registration No	2677809	Registration date	01/21/2003
Registrant	Jewish National Fund (Keren Kayemeth Leisrael), Inc. 42 East 69th Street New York, NY 10021 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 1902/01/00 First Use In Commerce: 1902/01/00 All goods and services in the class are cancelled, namely: CHARITABLE FUND RAISING SERVICES

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Priority and likelihood of confusion	Trademark Act section 2(d)		
Other	Lack of Ownership		
Registration No	2715431	Registration date	05/13/2003
Registrant	Jewish National Fund (Keren Kayemeth Leisrael), Inc. 42 East 69th Street New York, NY 10021 UNITED STATES		

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Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of Ownership

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JNF		
Goods/Services	"charitable fund raising services," among other goods and services		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JEWISH NATIONAL FUND		
Goods/Services	"charitable fund raising services," among other goods and services		

Attachments	Final Petition for Cancellation.pdf (10 pages)(46777 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	/Brett G. Corbly/
Name	Brett G. Corbly
Date	01/21/2008

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

In the Matter of Registration No. 2677809
Filed April 12, 2002 for the mark JNF
Published in the *Official Gazette* on October 29, 2002

and

In the Matter of Registration No. 2715431
Filed April 12, 2002 for the mark JEWISH NATIONAL FUND
Published in the *Official Gazette* on February 18, 2003

KEREN KAYEMET LEISRAEL LTD.	:	
(AKA KEREN KAYEMETH LEISRAEL)	:	
	:	
Petitioner,	:	
v.	:	CANCELLATION NO. _____
	:	
JEWISH NATIONAL FUND	:	
(KEREN KAYEMETH LEISRAEL), INC.,	:	
	:	
Respondent.	:	

PETITION FOR CANCELLATION

Keren Kayemet Leisrael Ltd. (aka Keren Kayemeth Leisrael, collectively “Petitioner”) believes that it has been, is, and will continue to be damaged by U.S. Registration No. 2715431 (the “431 Registration”) for the mark JEWISH NATIONAL FUND and U.S. Registration No. 2677809 (the “809 Registration”) for the mark JNF, and hereby petitions to cancel the same.

As grounds for its Cancellation, Petitioner alleges that:

1. Petitioner is a limited company incorporated and registered under the laws of the

Israel, having a place of business at 1 Keren Kayemeth Leisrael Street, Jerusalem, Israel 91072.

2. Petitioner owns and uses the marks JEWISH NATIONAL FUND and JNF throughout the world, including the United States, to identify “charitable fund raising services,” among other goods and services.

3. Upon information and belief, the registrant in the ‘431 and ‘809 Registrations, Jewish National Fund (Karen Kayemeth Leisrael), Inc. (“Respondent”), is a New York corporation having a place of business at 42 E. 69th St., New York, New York 10021.

4. Upon information and belief, Respondent is a licensee and/or distributor of Petitioner.

5. Since before the filing date of the ‘431 and ‘809 Registrations and any claimed date of first use by Respondent, Petitioner has used and continues to use the marks JEWISH NATIONAL FUND and JNF to identify, among other things, “charitable fund raising services.”

6. Petitioner has never consented to Respondents applying for and securing registration of the marks JEWISH NATIONAL FUND and/or JNF.

7. Petitioner has been, is, and will be damaged by Respondent’s continued registration of the marks JEWISH NATIONAL FUND and JNF.

8. Each registration has, is, and will continue to interfere with Petitioner's enjoyment of its rights in the JEWISH NATIONAL FUND and JNF marks, to Petitioner's detriment.

COUNT ONE: FRAUD IN THE APPLICATIONS

9. Petitioner incorporates herein by reference each and every allegation contained in paragraphs 1-8 above.

The '431 Registration

10. On or around April 12, 2002, Respondent submitted the application for the mark JEWISH NATIONAL FUND to the U.S. Patent and Trademark Office with a sworn declaration from Respondent's Chief Executive Officer stating that:

I am Chief Executive Officer and an officer of applicant corporation and am authorized to execute this declaration on behalf of said corporation; I believe said corporation to be the owner of the mark sought to be registered; to the best of my knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive; all statements made herein of my own knowledge are true and 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 so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

11. Upon information and belief, Respondent was not the owner of the JEWISH NATIONAL FUND mark at the time that Respondent applied for the registration of the JEWISH NATIONAL FUND mark and signed the aforementioned declaration in support of the same.

12. Upon information and belief, Respondent knew or should have known that it made false statements to the U.S. Patent and Trademark Office when Respondent alleged that it was the owner of the JEWISH NATIONAL FUND mark.

13. Upon information and belief, Respondent had knowledge of Petitioner at the time that Respondent applied for registration of the JEWISH NATIONAL FUND mark.

14. Upon information and belief, Respondent knew or should have known that it made false statements to the U.S. Patent and Trademark Office when Respondent alleged that “no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.”

15. Upon information and belief, Respondent made the aforementioned declaration with the knowledge that the statements were false and in violation of 15 U.S.C. §1051(a).

16. Upon information and belief, Respondent made the false declaration with the intent to induce an authorized agent of the U.S. Patent and Trademark Office to approve Respondent’s application and grant a registration, and relying on the truth of the statement,

the U.S. Patent and Trademark Office allowed the application and granted the '431 Registration.

17. In view of the foregoing, the '431 Registration should be declared *void ab initio*.

The '809 Registration

18. On or around April 12, 2002, Respondent submitted the application for the mark JNF to the U.S. Patent and Trademark Office with a sworn declaration from Respondent's Chief Executive Officer stating that:

I am Chief Executive Officer and an officer of applicant corporation and am authorized to execute this declaration on behalf of said corporation; I believe said corporation to be the owner of the mark sought to be registered; to the best of my knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive; all statements made herein of my own knowledge are true and 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 so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

19. Upon information and belief, Respondent was not the owner of the JNF mark at the time that Respondent applied for the registration of the JNF mark and signed the aforementioned declaration in support of the same.

20. Upon information and belief, Respondent knew or should have known that it made false statements to the U.S. Patent and Trademark Office when Respondent alleged that it was the owner of the JNF mark.

21. Upon information and belief, Respondent had knowledge of Petitioner at the time that Respondent applied for registration of the JNF mark.

22. Upon information and belief, Respondent knew or should have known that it made false statements to the U.S. Patent and Trademark Office when Respondent alleged that “no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.”

23. Upon information and belief, Respondent made the aforementioned declaration with the knowledge that the statements were false and in violation of 15 U.S.C. §1051(a).

24. Upon information and belief, Respondent made the false declaration with the intent to induce an authorized agent of the U.S. Patent and Trademark Office to approve Respondent’s application and grant a registration, and relying on the truth of the statement, the U.S. Patent and Trademark Office allowed the application and granted the ‘809 Registration.

25. In view of the foregoing, the ‘809 Registration should be declared *void ab initio*.

COUNT TWO: LACK OF OWNERSHIP

26. Petitioner incorporates herein by reference each and every allegation contained in paragraphs 1-25 above.

27. Petitioner is the rightful owner of the marks JEWISH NATIONAL FUND and JNF.

28. Respondent was not at any relevant time the owner of the marks or entitled to register the marks in the U.S.

29. Since the applications maturing into the '431 and '809 Registrations were filed and prosecuted by an entity other than the owner or an entity without the exclusive right to register the marks JEWISH NATIONAL FUND and/or JNF, the applications are *void ab initio* pursuant to Section 1 of the Lanham Act, 15 U.S.C. §1051.

COUNT THREE: LIKELIHOOD OF CONFUSION

30. Petitioner incorporates herein by reference each and every allegation contained in paragraphs 1-29 above.

31. Petitioner has used the marks JEWISH NATIONAL FUND and JNF in commerce prior to the filing date of the '431 and '809 Registrations and any date of first use that may be alleged by Respondent.

32. Petitioner has rights in the JEWISH NATIONAL FUND and JNF marks superior to any rights of Respondent.

33. In the alternative, if the '431 and/or '809 Registrations are not deemed *void ab initio*, Respondent's marks JEWISH NATIONAL FUND and JNF so resemble Petitioner's prior used marks as to be likely, when used in connection with Respondent's services, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

COUNT FOUR: FALSE CONNECTION

34. Petitioner incorporates herein by reference each and every allegation contained in paragraphs 1-33 above.

35. In the alternative, if the '431 and/or '809 Registrations are not deemed *void ab initio*, Respondent's marks JEWISH NATIONAL FUND and JNF falsely suggest a connection between Petitioner and Respondent under Section 2(a) of the Lanham Act, 15 U.S.C. §1052(a).

WHEREFORE, Petitioner requests that this Petition for Cancellation be granted and that Registration Nos. 2677809 and 2715431 be cancelled.

The Board is authorized to debit the \$600.00 fee for filing this Petition for Cancellation (that is, \$300.00 per class, per registration) from Deposit Account 11-0978, as well as any other fees deemed necessary.

Respectfully submitted,

KEREN KAYEMET LEISRAEL, LTD.
(AKA KEREN KAYEMETH LEISRAEL)

Dated: January 21, 2008

By: /Brett G. Corbly/
Brett G. Corbly, Esq.
Registration No. 56,522
KING & SCHICKLI, PLLC
247 North Broadway
Lexington, KY 40507
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing Petition for Cancellation was served by U.S. Postal Service First Class mail on this 21st day of January 2008, on Respondent's attorney:

AMY J. BENJAMIN
DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

/Brett G. Corbly/
Brett G. Corbly, Esq.