

ESTTA Tracking number: **ESTTA186721**

Filing date: **01/15/2008**

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	Emoda.Com Corporation		
Entity	Corporation	Citizenship	Pennsylvania
Address	8025 Excelsior Drive Suite 200 Madison, WI 53717 UNITED STATES		

Attorney information	Manny D. Pokotilow Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd. 1635 Market Street - 7 Penn Center 11th Floor Philadelphia, PA 19103-2212 UNITED STATES trademarks@crbcp.com, crbcpltd@aol.com, mlozada@crbcp.com Phone:215-567-2010
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**Registration Subject to Cancellation**

Registration No	3294672	Registration date	09/18/2007
Registrant	EMOD 20640 New Hampshire Ave Brookeville, MD 208331903 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2006/04/01 First Use In Commerce: 2006/04/01 All goods and services in the class are cancelled, namely: shirts, pants, shoes and hats
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**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. Application No.	77076028	Application Date	01/04/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EMODA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/05/31 First Use In Commerce: 2003/05/21		

	online retail store services featuring men's and women's clothing, namely jeans, pants, shorts, jackets, blazers, blouses, t-shirts, shirts, thermals, sweatshirts, hooded sweatshirts, sweat pants, skirts, dresses, hats, baseball caps, knit caps, belts and belt buckles; retail apparel stores; retail clothing stores; retail store services featuring men's and women's clothing, namely jeans, pants, shorts, jackets, blazers, blouses, t-shirts, shirts, thermals, sweatshirts, hooded sweatshirts, sweat pants, skirts, dresses, hats, baseball caps, knit caps, belts and belt buckles; retail stores featuring men's and women's clothing, namely jeans, pants, shorts, jackets, blazers, blouses, t-shirts, thermals, sweatshirts, hooded sweatshirts, sweat pants, skirts, dresses, hats, baseball caps, knit caps and belt buckles
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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	/mdp/
Name	Manny D. Pokotilow
Date	01/15/2008

1. Petitioner, EModa.Com Corporation has pending Application Serial No. 77/076,028 for the mark EMODA for ONLINE RETAIL STORE SERVICES FATURING MEN'S AND WOMEN'S CLOTHING, NAMELY JEANS, PANTS, SHORTS, JACKETS, BLAZERS, BLOUSES, T-SHIRTS, SHIRTS, THERMALS, SWEATSHIRTS, HOODED SWEATSHIRTS, SWEAT PANTS, SKIRTS, DRESSES, HATS, BASEBALL CAPS,KNIT CAPS, BELTS AND BELT BUCKLES; RETAIL APPAREL STORES; RETAIL COthing STORES; RETAIL STORE SERVICES FEATURING MEN'S AND WOMEN'S CLOTHNIG, NAMELY JEANS, PANTS, SHORTS, JACKETS, BLAZERS, BLOSUES, T-SHIRTS, SHIRTS, THERMALS, SWEATSHIRTS, HOODED SWEATSHIRTS, SWEAT PANTS, SKIRTS, DRESSES, HATS, BASEBALL CAPS, KNIT CAPS, BELTS AND BELT BUCKLES; RETAIL STORES FEATURING MEN'S AND WOMEN'S CLOTHING, NAMELY JEANS, PANTS, SHORTS, JACKETS, BLAZERS, BLOUSES, T-SHIRTS, THERMALS, SWEATSHIRTS, HOODED SWEATSHIRTS, SWEAT PANTS, SKIRTS, DRESSES, HATS, BASEBALL CAPS, KNIT CAPS AND BELT BUCKLES.

2. Petitioner, EModa.Com Corporation has been using the mark EMODA in connection with said services, at least as early as May 31, 2003, which is earlier than the date of first use of April 1, 2006 of Registrant, as well as earlier than the filing date of August 1, 2004.

3. Petitioner, EModa.Com Corporation has been refused registration for the mark EMODA by the U.S. Patent and Trademark as a result of the existence of the EMOD Registration by Registrant, which the U.S. PTO has asserted is likely to be confused with Applicant's mark.

4. If said registration of the mark EMOD and design by Registrant is permitted to remain of record, it will remain an obstruction to registration by Petitioner, all to the great injury of the Petitioner.

WHEREFORE, Petitioner believes that it will be damaged by the existence of Certificate of Registration No. 3,294,672 and respectfully prays that this Petition for Cancellation be granted and Certificate of Registration No. 3,294,672 be canceled pursuant to 15 U.S.C. 1064, Section 14 of the Trademark Act.

