

ESTTA Tracking number: **ESTTA219140**

Filing date: **06/19/2008**

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	Pacific Sunwear of California, Inc.		
Entity	Corporation	Citizenship	California
Address	3450 East Miraloma Avenue Anaheim, CA 92806 UNITED STATES		

Attorney information	Matthew D. Murphey Gordon & Rees LLP 2100 Ross Avenue, Suite 2800 Dallas, TX 75201 UNITED STATES casmith@gordonrees.com, slawson@gordonrees.com, tcostin@gordonrees.com, estanley@gordonrees.com, mmurphey@gordonrees.com, ejaegers@gordonrees.com Phone:214-231-4660
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**Registration Subject to Cancellation**

Registration No	3352727	Registration date	12/11/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	Kira Platinina Style, Ltd. app. 311 A, Building 3, 108, Dmitrovskoe shosseRU-127591 Moscow RUSSIAN FEDERATION		

**Goods/Services Subject to Cancellation**

<p>Class 003. All goods and services in the class are cancelled, namely: Adhesives for cosmetic use, After sun creams, After-shave, After-shave balms, After-shave creams, After-shave emulsions, After-shave gel, After-shave lotions, After-sun lotions, Age retardant gel, Age retardant lotion, Age spot reducing creams, Alcohol for cleaning purposes, All purpose cleaning preparations, All purpose cotton swabs for personal use, All-purpose cleaners, Ambergris, Almond soaps, Antibacterial soap, Antiperspirants for personal use, Anti-aging cream, Anti-wrinkle cream, Aromatherapy creams, Aromatherapy lotions, Aromatherapy oils, Artificial eyelashes, Artificial fingernails, Astringents for cosmetic purposes, Baby oils, Baby powders, Baby shampoo, Bar soap, Bath foam, Bath gel, Bath lotion, Bath oils for cosmetic purposes, Bath salts, Beauty creams, Beauty creams for body care, Beauty gels, Beauty lotions, Beauty masks, Beauty milks, Bergamot oil, Bleaching preparations for cosmetic purposes, Blush, Body and beauty care cosmetics, Body art pens, Body cream, Body cream soap, Body deodorant in pill form, Body emulsions, Body lotion, Body mask cream, Body milk, Body oil, Body scrub, Body sprays, Body washes, Chalk for cosmetic use, Cleansing creams, Cocoa butter for cosmetic purposes, Cold cream, Cologne, Coloring preparations for cosmetic purposes, Compacts containing make-up, Cosmetic balls, Cosmetic creams, Cosmetic facial blotting papers, Cosmetic milks, Cosmetic oils, Cosmetic pads, Cosmetic pencils, Cosmetic preparations for skin renewal, Cosmetic preparations against sunburn, Cosmetic preparations for body care, Cosmetic preparations for eye</p>
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lashes, Cosmetic preparations for the care of mouth and teeth, Cosmetic rouges, Cosmetic soaps, Cosmetic sun-protecting preparations, Cosmetic sun-tanning preparations, Cosmetics, Cosmetics namely, compacts, lip primer, lip repairers; Cotton for cosmetic purposes; Cotton sticks for cosmetic purposes; Cream soaps; Creams for cellulite reduction; Creamy face powder; Creamy foundation; Cuticle conditioners; Cuticle cream; Cuticle removing preparations; Decorative transfers and skin jewels for cosmetic purposes; Deodorant for personal use; Deodorant soap; Depilatories; Eau de parfum; Eau de toilette; Epilatory strips; Essential oils; Exfoliant creams; Eye compresses for cosmetic purposes; Eye cream; Eye make-up; Eye make-up remover; Eye pencils; Eye shadow; Eyebrow colors; Eyebrow pencils; Eyeliner; Eyeliner pencils; Face and body creams; Face milk and lotions; Face powder; Facial make-up; False eyelashes; False nails; Foams containing cosmetics and sunscreens; Foundation make-up; Gauze for cosmetic purposes; Gel eye masks; Hair balsam; Hair bleach; Hair bleaches; Hair care creams; Hair care preparations; Hair cleaning preparations; Hair color; Hair color removers; Hair conditioner; Hair dressings for men; Hair dressings for women; Hair fixers; Hair gel; Hair lotions; Hair mousses; Hair oils; Hair relaxing preparations; Hair removing cream; Hair spray; Hair straightening preparations; Hair styling preparations; Hair tonics; Hand cleaning preparations; Hand creams; Hand lotions; Hand soaps; Henna for cosmetic purposes; Lip balm; Lip cream; Lip gloss; Lip liner; Lipstick; Lipstick holders; Liquid soaps for hands, face and body; Liquid perfumes; Lotions for face and body care; Make up foundations; Make up removing preparations; Make-up; Make-up pencils; Make-up powder; Make-up products for the face and body; Mascaras; Massage oils; Mineral salt in the nature of bath salts not for medical purposes; Moisturizing milks; Nail care preparations; Nail cream; Nail enamels; Nail hardeners; Nail polish; Nail strengtheners; Nail tips; Nail varnish for cosmetic purposes; Nail-polish removers; Natural essential oils; Natural mineral make-up; Non-medicated acne treatment preparations; Non-medicated bath preparations; Non-medicated body soaks; Non-medicated foot cream; Non-medicated lip care preparations; Non-medicated lip protector; Non-medicated ointments for the prevention and treatment of sunburn; Non-medicated scalp treatment cream; Non-medicated skin care preparations; Non-medicated skin creams; Non-medicated sun care preparations; Non-medicated toiletries; Nutritional oils for cosmetic purposes; Oil baths for hair care; Oils for hair conditioning; Paraffin wax for cosmetic purposes; Pencils for cosmetic purposes; Perfume oils; Perfume oils for the manufacture of cosmetic preparations; Perfumed creams; Perfumed extracts for tissues and perfumes; Perfumed paste; Perfumed powders; Perfumed soaps; Perfumery; Perfuming sachets; Pre-shave creams; Rose oil for cosmetic purposes; Rouges; Shampoos; Shampoo-conditioners; Shaving balm; Shaving creams; Shaving foam; Shaving gels; Shaving lotions; Shaving preparations; Shaving soap; Shower and bath gel; Shower creams; Skin and body topical lotions, creams and oils for cosmetic use; Skin abrasive preparations; Skin bronzing creams; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin creams; Skin lotions; Skin soap; Sun care lotions; Sun creams; Sun screen preparations; Suntanning preparations; Synthetic perfumery; Talcum powders; Toilet soaps; Toilet water; Toothpastes

**Class 025.**

All goods and services in the class are cancelled, namely: Bandanas; Neckerchiefs; Underwear; Overalls; Boas; Ankle boots; Breeches; Trousers; Brassieres; Veils; Ascots; Leggings; Gaiters; Vests; Sports jerseys; Hosiery; Hoods; Collar protectors; Cap visors; Tights; Combinations; Wet suits for water-skiing and sub-aqua; Suits; Bathing suits; Masquerade costumes; Beachwear; Jackets; Camisoles; T-shirts; Sports shirts with short sleeves; Shirt fronts; Fur stoles; Socks; Bath slippers; Beach shoes; After ski boots; Climbing boots; Football boots and studs therefore; Hiking boots; Horse-riding boots; Motorcyclist boots; Ski and snowboard shoes and parts thereof; Soccer boots; Anglers' shoes; Athletic shoes; Ballet shoes; Baseball shoes; Bowling shoes; Boxing shoes; Cycling shoes; Golf shoes; Handball shoes; Hockey shoes; Rugby shoes; Tennis shoes; Volleyball shoes; Pumps; Footwear; Jerseys; Leather belts; Leather coats; Leather headwear; Leather jackets; Leather pants; Suits of leather; Trousers of leather; Topcoats; Raincoats; Trench coats; Parkas; Pelerines; Gloves; Pajamas; Scarves; Frocks; Waterproof jackets and pants; Headbands; Garters; Suspender belts for women; Lace boots; Belts; Money belts; Pullovers; Shirts; Footwear made of wood; Sandals; Boots; Saris; Sweaters; Underpants; Gymnastic shoes; Slippers; Shoes; Turbans; Head wear; Aprons; Dressing gowns; Shower caps; Stockings; Shawls; Skull caps; Bathing caps; Sashes; Pelisses; Canvas shoes; Skirts; Petticoats

## Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
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False suggestion of a connection	Trademark Act section 2(a)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2893488	Application Date	10/01/2003
Registration Date	10/12/2004	Foreign Priority Date	NONE
Word Mark	KIRRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/08/15 First Use In Commerce: 1994/08/15 men, women and children's apparel, namely, hats, caps, visors, hoods, berets, head bands, sweat bands, ear muffs, gloves, mittens, wrist bands, suspenders, belts, socks, stockings, pantyhose, bodysuits, leotards, leggings, sweat socks, thermal socks, shoes, sneakers, galoshes, waders, boots, sandals, slippers, kerchiefs, scarves, mufflers, bandannas, neckerchiefs, vests, pajamas, robes, kimonos, caftans, smocks, aprons, boxer shorts, briefs, underpants, corsets, corselets, girdles, brassieres, bustiers, chemises, teddies, camisoles, slips, negligees, peignoirs, shirts, blouses, knit tops, dresses, skirts, jumpsuits, pant suits, rompers, swimming trunks, wet suits, thermal underwear, undershirts, tunics, tank tops, cotton woven shirts, knit shirts, polo shirts, t-shirts, sweat shirts, crew neck sweaters, v-neck sweaters, turtleneck sweaters, cardigans, suits, jogging suits, shorts, sweat shorts, jeans, pants, slacks, trousers, sweat pants, ski suits, ski pants, ski bibs, capes, shawls, blazers, waistcoats, rain coats, overcoats, top coats, sport coats, parkas, bolero jackets, jackets, wind resistant jackets, outer jackets, leather jackets, ski jackets, flannel jackets, wool jackets, polyester woven shirts, rayon woven shirts, wool woven shirts, leather coats, elastic waist shorts, fixed waist shorts, denim shorts, and denim jackets		

U.S. Registration No.	2986176	Application Date	04/07/2003
Registration Date	08/16/2005	Foreign Priority Date	NONE
Word Mark	KIRRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/07/30 First Use In Commerce: 2003/07/30 Perfume, cologne, scented body spray Class 025. First use: First Use: 2003/04/30 First Use In Commerce: 2003/04/30 men, women and children's apparel, namely, hats, caps, belts, socks, sandals, boxer shorts, shirts, knit tops, swimming trunks, cotton woven shirts, knit shirts, polo shirts, t-shirts, crew neck sweaters, v-neck sweaters, shorts, jeans, outer jackets, elastic waist shorts, fixed waist shorts, denim shorts		

U.S. Registration No.	2990311	Application Date	04/07/2003
Registration Date	08/30/2005	Foreign Priority Date	NONE
Word Mark	KIRRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2003/08/01 First Use In Commerce: 2003/08/01 Perfume, cologne, scented body spray</p> <p>Class 025. First use: First Use: 2003/08/01 First Use In Commerce: 2003/08/01 men, women and children's apparel, namely, hats, caps, belts, socks, sandals, shorts, briefs, shirts, , knit tops, , , swimming trunks, cotton woven shirts, knit shirts, polo shirts, t-shirts, crew neck sweaters, v-neck sweaters, , shorts, , jeans, outer jackets, elastic waist shorts, fixed waist shorts, denim shorts</p>		

U.S. Registration No.	2841810	Application Date	01/22/2003
Registration Date	05/11/2004	Foreign Priority Date	NONE
Word Mark	KIRRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2003/08/05 First Use In Commerce: 2003/08/05 Perfume, cologne, scented body spray</p>		

U.S. Registration No.	2998305	Application Date	09/02/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	KIRRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2003/12/31 First Use In Commerce: 2003/12/31 men, women and children's apparel, namely, hats, caps, visors, belts, socks, shoes, sneakers, sandals, slippers, shirts, knit tops, swimming trunks, tank tops, cotton woven shirts, knit shirts, polo shirts, t-shirts, sweat shirts, crew neck sweaters, v-neck sweaters, shorts, jeans, pants, jackets, wind resistant jackets, outer jackets, leather jackets, fixed waist shorts</p>		

U.S. Application No.	77032455	Application Date	10/30/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KIRRA GIRL		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 003. First use: Perfume, cologne, scented body spray</p> <p>Class 025. First use: women, young women and youth apparel, namely, hats, caps, visors, hoods, berets, head bands, sweat bands, ear muffs, gloves, mittens, wrist bands, suspenders, belts, socks, stockings, pantyhose, body suits, leotards, leggings, sweat socks, thermal socks, shoes, sneakers, galoshes, waders, boots, sandals, slippers, kerchiefs, scarves, mufflers, bandannas, neckerchiefs, vests, pajamas, robes, kimonos, caftans, smocks, aprons, boxer shorts, underpants, corsets, corselets, girdles, brassieres, bustiers, chemises, teddies, camisoles, slips, negligees, peignoirs, shirts, blouses, knit tops, dresses, skirts, jumpsuits, pant suits, rompers, swimming trunks, wet suits, thermal underwear, undershirts, tunics, tank tops, cotton woven shirts, knit shirts, polo shirts, t-shirts, sweat shirts, crew neck sweaters, v-neck sweaters, turtleneck sweaters, cardigans, suits, jogging suits, shorts, sweat shorts, jeans, pants, slacks, trousers, sweat pants, ski suits, ski pants, ski bibs, capes, shawls, blazers, waistcoats, rain coats, overcoats, top coats, sport coats, parkas, bolero jackets, jackets, wind resistant jackets, outer jackets, leather jackets, ski jackets, flannel jackets, wool jackets, polyester woven shirts, rayon woven shirts, wool woven shirts, leather coats, elastic waist shorts, fixed waist shorts, denim shorts, and denim jackets</p>
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Attachments	<p>78234644#TMSN.gif ( 1 page )( bytes )  78234683#TMSN.jpeg ( 1 page )( bytes )  78478188#TMSN.jpeg ( 1 page )( bytes )  77032455#TMSN.jpeg ( 1 page )( bytes )  Cancellation Petition.pdf ( 4 pages )(16355 bytes )</p>
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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	/Matthew D. Murphey/
Name	Matthew D. Murphey
Date	06/19/2008

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

In the Matter of Trademark Registration No. 3,352,727  
Registered December 11, 2007

PACIFIC SUNWEAR OF CALIFORNIA, INC.,	)	Cancellation No. _____
	)	
Petitioner,	)	Mark: Kira Plastinina
	)	
v.	)	Registration No. 3,352,727
	)	
KIRA PLASTININA STYLE, LTD.,	)	Filed: December 18, 2006
	)	
Registrant.	)	Registered: December 11, 2007

PETITION FOR CANCELLATION

Petitioner is Pacific Sunwear of California, Inc. (“Petitioner”), a corporation organized and existing under the laws of the State of California with its principal place of business at 3450 East Miraloma Avenue, Anaheim, CA 92806. Registrant Kira Plastinina Style, Ltd. (“Registrant”) is, on information and belief, a Russian limited liability entity with its principal place of business at 311 A, Building 3, 108, Dmitrovskoe shosse RU-127591 Moscow, Russian Federation. Registrant is the owner of record for the mark “KIRA PLASTININA” shown in U.S. Trademark Registration No. 3,352,727 (“Registrant’s Mark”). Petitioner believes it is or will be damaged by continued registration of Registrant’s Mark, and Petitioner hereby petitions the Trademark Trial and Appeal Board for cancellation of Registrant’s Mark.

The grounds for cancellation are as follows:

1. Registrant’s “KIRA PLASTININA” Mark is registered on the Principal Register in multiple classes, including those for perfume in International Class 003 and for clothing in International Class 025.

2. An application for registration of Registrant's Mark was filed with the United States Patent and Trademark Office on December 18, 2006, and subsequently registered on December 11, 2007. The filing date of the application for Registrant's Mark, December 18, 2006, constitutes the date of constructive use in the United States of Registrant's Mark under 15 U.S.C. § 1057(c) and 15 U.S.C. § 1141f(b).

3. Petitioner is the owner of the registered trademark KIRRA. Petitioner has used the KIRRA trademark for nearly fifteen years, and has expanded that use to include a variety of goods and/or services. From its first use in connection with clothing in International Class 025, Petitioner has registered the KIRRA mark for use in connection with perfumes in International Class 003. Petitioner's family of United States Registrations for the KIRRA mark includes Nos. 2,893,488, 2,986,176, 2,990,311, 2,841,810, and 2,998,305. Petitioner has also applied for registration of the mark "KIRRA GIRL", Application No. 77/032,455. That application was filed October 30, 2006 in International Classes 003 and 025. The foregoing Registrations and Application are hereafter collectively referred to as "Petitioner's Marks" or the "KIRRA Marks".

4. There is no issue of priority concerning adoption of and use by Petitioner of its federally-registered KIRRA Marks on the one hand, and any alleged use of the mark "KIRA PLASTININA" by Registrant on the other. Petitioner has continuously used and extensively advertised its KIRRA Marks throughout the United States since 1994. This use pre-dates Registrant's date of constructive use of Registrant's Mark in the United States, December 18, 2006, by many years.

5. Petitioner's Marks are famous, arbitrary, fanciful, highly distinctive and are recognized by the public as identifying Petitioner's goods and/or services.

6. Petitioner has used its Marks throughout the United States, has heavily advertised and promoted its KIRRA Marks, and Petitioner's Marks have developed and

represent valuable, substantial and exclusive goodwill and reputation inuring to Petitioner's benefit. Petitioner's goodwill and reputation are or will be harmed by the use and registration of Registrant's Mark.

7. Registrant's "KIRA PLASTININA" Mark so resembles Petitioner's KIRRA Marks as to be likely to cause confusion, mistake or to deceive as to the source or origin of Registrant's goods and/or services by creating the erroneous impression that Registrant's goods and/or services originate with, are sponsored, approved, endorsed or licensed by, affiliated or associated with, or in some other way legitimately connected to Petitioner, its Marks or its goods and/or services. Such confusion, mistake or deception by Registrant's Mark has and will continue to damage Petitioner.

8. The registration of Registrant's Mark is contrary to 15 U.S.C. §§ 1052 and 1125(c) and dilutes the distinctive quality of Petitioner's Marks. Such dilution by Registrant's Mark has and will continue to damage Petitioner.

9. The registration of Registrant's Mark is also contrary to 15 U.S.C. § 1052(d) and violates or diminishes Petitioner's prior and superior rights in its KIRRA Marks. Registrant has obtained statutory rights in its Mark in violation and in derogation of Petitioner's established prior rights in its KIRRA Marks.

WHEREFORE, for the foregoing reasons, Petitioner prays that U.S. Registration No. 3,352,727 be cancelled under Section 14, subparagraph 3 of the Lanham Act, 15 U.S.C. § 1064, and that this Petition for Cancellation be sustained in favor of Petitioner.

Please direct all correspondence to:

Matthew D. Murphey  
Gordon & Rees LLP  
2100 Ross Avenue, Suite 2800  
Dallas, Texas 75201  
Telephone: 214.231.4660  
Facsimile: 214.461.4053

Petitioner hereby appoints Matthew D. Murphey, Eric M. Jaegers, Steven Lawson, and Elizabeth K. Stanley as their attorneys to transact all business in the United States Patent and Trademark Office related to this matter with full power of substitution.

Accompanying the duplicate signed copies of this Petition for Cancellation is the required fee of \$600.00. Please charge any excess fees or credit any overpayment to the Deposit Account No. 50-1990 of Petitioner's counsel noted below.

Respectfully submitted on behalf of Petitioner  
Pacific Sunwear of California, Inc. by:

/s/

\_\_\_\_\_  
Matthew D. Murphey  
Texas State Bar. No. 24049166  
Eric M. Jaegers  
Texas State Bar No. 24005037  
Steven Lawson  
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ATTORNEYS FOR PETITIONER  
PACIFIC SUNWEAR OF CALIFORNIA, INC.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the above document was filed electronically with the Trademark Trial and Appeal Board on this the 19<sup>th</sup> day of June, 2008.

/s/

\_\_\_\_\_  
Matthew D. Murphey