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

Proceeding	92049533
Party	Defendant Kira Plastinina Style, Ltd.
Correspondence Address	Kira Plastinina Style, Ltd. app. 311 A, Building 3,, 108, Dmitrovskoe shosse RU-127591 Moscow, RUSSIAN FEDERATION trademark@buchalter.com
Submission	Answer and Counterclaim
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Signature	/jkr/
Date	08/26/2008
Attachments	Answer and Counterclaim.pdf (5 pages)(1520328 bytes)

Registrations Subject to Counterclaim

Registration No	2893488	Registration date	10/12/2004
Registrant	Pacific Sunwear of California 3450 East Miraloma Avenue Anaheim, CA 928062101 UNITED STATES		

Goods/Services Subject to Counterclaim

<p>Class 025. First Use: 1994/08/15 First Use In Commerce: 1994/08/15 All goods and services in the class are requested, namely: 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</p>

Registration No	2986176	Registration date	08/16/2005
Registrant	Pacific Sunwear of California 3450 East Miraloma Avenue Anaheim, CA 928062101 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 003. First Use: 2003/07/30 First Use In Commerce: 2003/07/30
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All goods and services in the class are requested, namely: Perfume, cologne, scented body spray
Class 025. First Use: 2003/04/30 First Use In Commerce: 2003/04/30 All goods and services in the class are requested, namely: 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

Registration No	2990311	Registration date	08/30/2005
Registrant	Pacific Sunwear of California 3450 East Miraloma Avenue Anaheim, CA 928062101 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 003. First Use: 2003/08/01 First Use In Commerce: 2003/08/01 All goods and services in the class are requested, namely: Perfume, cologne, scented body spray
Class 025. First Use: 2003/08/01 First Use In Commerce: 2003/08/01 All goods and services in the class are requested, namely: 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

Registration No	2998305	Registration date	09/20/2005
Registrant	Pacific Sunwear of California 3450 East Miraloma Avenue Anaheim, CA 928062101 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 025. First Use: 2003/12/31 First Use In Commerce: 2003/12/31 All goods and services in the class are requested, namely: 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
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IN THE UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN THE MATTER OF REGISTRATION NO. 3,352,727
FOR THE MARK KIRA PLASTININA
REGISTERED ON DECEMBER 11, 2007

Kira Plastinina Style, Ltd.

Registrant,

vs.

Pacific Sunwear of California, Inc.,

Petitioner.

Cancellation No. 92049533

**Registrant's Answer to Petition for Cancellation and Counterclaims for Cancellation of
Registration Nos. 2,893,488; 2,986,176; 2,990,311; 2,998,305**

Registrant Kira Plastinina Style, Ltd., by its undersigned counsel of record, hereby answers the Petition for Cancellation as follows:

1. Registrant admits the allegations contained in Paragraph 1 of the Petition for Cancellation (hereinafter the "Petition").
2. Registrant admits the allegations contained in the first sentence of Paragraph 2 of the Petition only, and with regard to the remainder of Paragraph 2, Registrant denies each and every allegation contained in the remainder of Paragraph 2, both to the extent the allegations in the remainder of Paragraph 2 state a conclusion of law and to the extent the remainder of the allegations in Paragraph 2 are deemed factual.
3. Registrant lacks information or knowledge sufficient to admit or deny the allegations of Paragraph 3 of the Petition and based upon said lack of information or knowledge denies each and every allegation contained therein, both to the extent the allegations in Paragraph 3 state a conclusion of law and to the extent the allegations in Paragraph 3 are deemed factual.
4. Registrant lacks information or knowledge sufficient to admit or deny the allegations of Paragraph 4 of the Petition and based upon said lack of information or knowledge denies each and every allegation contained therein, both to the extent the allegations in Paragraph 4 state a conclusion of law and to the extent the allegations in Paragraph 4 are deemed factual.
5. Registrant denies the allegations of Paragraph 5, both to the extent the allegations in Paragraph 5 state a conclusion of law and to the extent the allegations in Paragraph 5 are deemed factual.
6. Registrant lacks information or knowledge sufficient to admit or deny the allegations of Paragraph 6 of the Petition and based upon said lack of information or knowledge denies each and every allegation contained therein, both to the extent the allegations in

Paragraph 6 state a conclusion of law and to the extent the allegations in Paragraph 6 are deemed factual.

7. Registrant denies the allegations of Paragraph 7, both to the extent the allegations in Paragraph 7 state a conclusion of law and to the extent the allegations in Paragraph 7 are deemed factual.

8. Registrant denies the allegations of Paragraph 8, both to the extent the allegations in Paragraph 8 state a conclusion of law and to the extent the allegations in Paragraph 8 are deemed factual.

9. Registrant denies the allegations of Paragraph 9, both to the extent the allegations in Paragraph 9 state a conclusion of law and to the extent the allegations in Paragraph 9 are deemed factual.

AFFIRMATIVE DEFENSES

10. There is no likelihood of confusion, mistake or deception between the instant marks.

11. Petitioner's mark and Registrant's mark are not confusingly similar in sound, sight, meaning or overall commercial appearance.

12. The goods of the respective parties are sold and marketed via divergent channels and to different consumers.

13. Petitioner's KIRRA mark is not famous and continued registration of Registrant's KIRA PLASTININA mark does not and will not dilute Petitioner's mark.

14. Upon information and belief Petitioner has abandoned the mark which was the subject of Registration No. 2,893,488.

15. Upon information and belief, Petitioner has abandoned the mark which was the subject of Registration No. 2,986,176.

16. Upon information and belief, Petitioner has abandoned the mark which was the subject of Registration No. 2,990,311.

17. Upon information and belief, Petitioner has abandoned the mark which was the subject of Registration No. 2,998,305.

18. Upon information and belief Petitioner has fraudulently procured registration of the KIRRA mark, Registration No. 2,893,488.

19. Upon information and belief Petitioner has fraudulently procured registration of the KIRRA mark, Registration No. 2,986,176.

20. Upon information and belief Petitioner has fraudulently procured registration of the KIRRA mark, Registration No. 2,990,311.

21. Upon information and belief Petitioner has fraudulently procured registration of the KIRRA mark, Registration No. 2,998,305.

COUNTERCLAIM

22. Registrant Kira Plastinina Style, Ltd. is a Russian company with a principal place of business of 311A, Building 3, 108 Dmitrovskoe Shosse, Moscow, RU-127591, Russian Federation.

23. Petitioner Pacific Sunwear of California, Inc. is a California corporation with a principal place of business of 3450 East Miraloma Avenue, Anaheim, California 92806.

24. Registrant hereby counterclaims seeking cancellation of Petitioner's Registration Nos. 2,893,488; 2,986,176; 2,990,311 and 2,998,305 issued to Petitioner for the mark KIRRA.

25. Petitioner has obtained registration of the KIRRA mark, Registration No. 2,893,488, for use in connection with the following goods:

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 in Class 025.

26. Registration No. 2,893,488 was obtained fraudulently in that the formal application papers filed by Petitioner under notice of Section 1001 of Title 18 of the United States Code contained Petitioner's affirmative statement that the Petitioner had a good faith intent to use the mark in connection with the goods listed in Paragraph 25 herein. To the best of Registrant's knowledge, Petitioner has not ever used the mark in connection with the sale of nor has it ever planned to use the mark in connection with all of the goods identified in Paragraph 25 herein. Said statement was made of an authorized agent of Petitioner with the knowledge and belief said statement was false. Said false statement was made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant said registration, and, reasonably relying on the truth of said false statements, the United States Patent and Trademark Office did in fact grant such registration.

27. Upon information and belief, to the extent there was any use of the KIRRA mark in connection with the sale of all of the goods identified in Paragraph 25 herein, Petitioner has abandoned use of the mark in the United States and/or commerce within the United States.

28. Petitioner has obtained registration of the KIRRA mark, Registration No. 2,986,176, for use in connection with the following goods:

Perfume, cologne, scented body spray in Class 003 and Men, women and children's apparel, namely, hats, caps, belts, socks, sandals, boxer shorts, shirts, knit tops, swimming trunks, cotton weave 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 in Class 025.

29. Registration No. 2,986,176 was obtained fraudulently in that the formal application papers filed by Petitioner under notice of Section 1001 of Title 18 of the United States Code contained Petitioner's affirmative statement that the Petitioner had a good faith intent to use the mark in connection with the goods listed in Paragraph 28 herein. To the best of Registrant's knowledge, Petitioner has not ever used the mark in connection with the sale of nor has it ever planned to use the mark in connection with all of the goods identified in Paragraph 28 herein. Said statement was made of an authorized agent of Petitioner with the knowledge and belief said statement was false. Said false statement was made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant said registration, and, reasonably relying on the truth of said false statements, the United States Patent and Trademark Office did in fact grant such registration.

30. Upon information and belief, to the extent there was any use of the KIRRA mark in connection with the sale of all of the goods identified in Paragraph 28 herein, Petitioner has abandoned use of the mark in the United States and/or commerce within the United States.

31. Petitioner has obtained registration of the KIRRA mark, Registration No. 2,990,311, for use in connection with the following goods:

Perfume, cologne, scented body spray in Class 003 and 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, short, jeans, outer jackets, elastic waist shorts, denim shorts in Class 025.

32. Registration No. 2,990,311 was obtained fraudulently in that the formal application papers filed by Petitioner under notice of Section 1001 of Title 18 of the United States Code contained Petitioner's affirmative statement that the Petitioner had a good faith intent to use the mark in connection with the goods listed in Paragraph 31 herein. To the best of Registrant's knowledge, Petitioner has not ever used the mark in connection with the sale of nor has it ever planned to use the mark in connection with all of the goods identified in Paragraph 31 herein. Said statement was made of an authorized agent of Petitioner with the knowledge and belief said statement was false. Said false statement was made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant said registration, and, reasonably relying on the truth of said false statements, the United States Patent and Trademark Office did in fact grant such registration.

33. Upon information and belief, to the extent there was any use of the KIRRA mark in connection with the sale of all of the goods identified in Paragraph 31 herein, Petitioner has abandoned use of the mark in the United States and/or commerce within the United States.

34. Petitioner has obtained registration of the KIRRA mark, Registration No. 2,998,305, for use in connection with the following goods:

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 in Class 025.

35. Registration No. 2,998,305 was obtained fraudulently in that the formal application papers filed by Petitioner under notice of Section 1001 of Title 18 of the United

States Code contained Petitioner's affirmative statement that the Petitioner had a good faith intent to use the mark in connection with the goods listed in Paragraph 34 herein. To the best of Registrant's knowledge, Petitioner has not ever used the mark in connection with the sale of nor has it ever planned to use the mark in connection with all of the goods identified in Paragraph 34 herein. Said statement was made of an authorized agent of Petitioner with the knowledge and belief said statement was false. Said false statement was made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant said registration, and, reasonably relying on the truth of said false statements, the United States Patent and Trademark Office did in fact grant such registration.

36. Upon information and belief, to the extent there was any use of the KIRRA mark in connection with the sale of all of the goods identified in Paragraph 34 herein, Petitioner has abandoned use of the mark in the United States and/or commerce within the United States.

37. The continued existence of Petitioner's registrations for the KIRRA mark has allowed Petitioner to interfere with Registrant's rights.

Wherefore Registrant respectfully requests that the petition be denied and Petitioner's registration Nos. 2,893,488; 2,986,176; 2,990,311 and 2,998,305 be cancelled.

Please recognized as attorneys for Registrant in this proceeding Douglas Lipstone, Matthew Seror and Jessie K. Reider (members of the Bar of the State of California) and the firm of Buchalter Nemer, a Professional Law Corporation, 1000 Wilshire Boulevard, Suite 1500, Los Angeles, California 90017.

DATED: August 26, 2008.

Respectfully submitted,

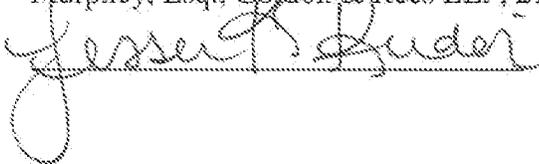
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Kira Plastinina Style, Ltd.

Certificate of Service: The undersigned hereby certifies that the ANSWER TO PETITION FOR CANCELLATION AND COUNTERCLAIM FOR CANCELLATION was served on Petitioner by sending a copy first class mail, postage prepaid, to Petitioner's counsel of record, Matthew D. Murphey, Esq., Gordon & Rees LLP, 2100 Ross Avenue, Suite 2800, Dallas, Texas 75201.



By: Jessie K. Reider