

INTELLECTUAL LAW
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SPECIALIZING IN PATENTS,
TRADEMARKS,
COPYRIGHTS, AND ALL
MATTERS RELATED
THERE TO

September 15, 2008

TTAB

Commissioner for Trademarks
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Re: CANCELLATION
DAVID J. DEACY
v. DEREK L. BABCOCK. # 78362861
In re U.S. Registration No: 2,963,259
Our File No.: 7247-6

Dear Sir:

Enclosed are the following items in connection with the above referenced trademark:

1. Cover Letter;
2. An original and one copy of Petition for Cancellation;
3. USPTO Credit Card Payment Form authorizing payment in the amount of \$300.00 payable to the Commissioner of Trademarks *i.e.*, Cancellation fee; and
4. Self-addressed acknowledgment postcard.

Respectfully submitted,

PANAGIOTA BETTY TUFARIELLO

PBT:ac
Enclosures

CERTIFICATE OF MAILING

Express Mail No. EH 309181135 US

Date of Deposit: September 15, 2008

I hereby certify that this correspondence is being deposited on the date with the U.S. Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to: Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on Monday, September 15, 2008

Dated: 9/15/08

Panagiota Betty Tufariello

09-15-2008

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

_____ X
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DAVID J. DEACY :
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Petitioner :
:
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v. :
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DEREK L. BABCOCK :
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:
Respondent :
:
_____ X

**PETITION FOR
CANCELLATION**

78362861

U.S. Registration No: 2,963,259
Date of Registration: June 21, 2005

Trademark: PETPAGES

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EH 309181135 US envelope addressed to: Commissioner for Commissioner for Patents, United States Patent and Trademark Office, on Monday, September 15, 2008

DATED: 9/15/08
Name:

Panagiota Betty Tufariello
Panagiota Betty Tufariello

BOX TTAB FEE
Hon. Commissioner for Patents and Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

David J. Deacy, an individual, citizen of the United States, having a principal place of Residence at **2831 River Pines Way, Sarasota, FL 34231**. (hereinafter "Petitioner"), believes that he and will continue to be damaged by the registration of the mark shown in the registration identified herein above. Accordingly, Petitioner hereby requests and petitions for cancellation of

same, pursuant to 37 C.F.R. § 2.11 (a).

The grounds for the present Petition for Cancellation are as follows:

1. Petitioner is the owner of the mark PET PAGES & DESIGN for use in connection with publication and distribution of yellow page pet resources directories, in International Classes 16, 35 and 41 respectively. Petitioner has established use of his trademark PET PAGES & DESIGN in commerce, in connection with publication and distribution of yellow page pet resources directories, since September 16, 1999.
2. Petitioner is also the owner of the mark PET PAGES for use in connection with the publication and distribution of yellow page pet resources directories, in International Classes 16, 35 and 41 respectively. Petitioner has established use of his trademark PET PAGES in commerce, publication and distribution of yellow page pet resources directories, since September 16, 1999.
3. Since September 16, 1999, Petitioner has continuously used and continues to use through the present time, the PET PAGES marks in connection with his goods and services, namely publication and distribution of yellow pages pet resources directories.
4. Since September 16, 1999, Petitioner has continued to promote his goods and services used in connection with his PET PAGES marks.
5. As a result, Petitioner has spent substantial time, money and effort promoting and advertising his goods and services under the PET PAGES marks and has acquired and now enjoys a valuable reputation and good will, under his PET PAGES

marks.

6. By virtue of the good will associated with and established by the PET PAGES marks, publications and distribution of yellow pages pet resources directories bearing the PET PAGES marks are immediately identified by the buying public with Petitioner.
7. Petitioner is the Applicant in U.S. Trademark Application Serial No. 76/684,489 filed on November 30, 2007, for its mark PET PAGES & DESIGN. Said Application is still pending before the Trademark Office and is currently under Examination.
8. On March 14, 2008, the Examiner assigned to examine Petitioner's Application Serial No. 76/684,489, refused registration of Petitioner's mark on the principal Register because the Examiner believes that there is a likelihood of confusion between Petitioner's Mark and U.S. Registration No. 2,963,259, the subject of the Present Petition.
9. Petitioner is the Applicant in U.S. Trademark Application Serial No. 76/684,490 filed on November 30, 2007, for his mark PET PAGES. Said Application is still pending before the Trademark Office and is currently under Examination.
10. On March 14, 2008, the Examiner assigned to examine Petitioner's Application Serial No. 76/684,490, refused registration of Petitioner's mark on the Principal Register because the Examiner believes that there is a likelihood of confusion between Petitioner's Mark and U.S. Registration No. 2,963,259, the subject of the Present Petition.

11. However, upon information and belief, Registrant of U.S. Registration 2,963,259, has started using the mark in interstate commerce no earlier than November 3, 2003.
12. By comparison, and as stated herein above, Petitioner began using the mark on or about September 16, 1999. Accordingly, Petitioner has prior rights to the marks PET PAGES and PET PAGES & DESIGN; prior rights that precede Registrant's rights to its mark PET PAGES as embodied by U.S. Registration 2,963,259.
13. The use and continued registration of Registrant's Mark is likely to cause confusion between Petitioner's and Registrant's mark, under Section 2(d) of the Lanham Act. Accordingly, the continuation of Registration 2, 963,259 on the Principal register has caused and will cause significant damage to Petitioner.
14. A duplicate copy of this Petition is enclosed, together with USPTO Credit Card Payment Form for the required fee of \$300.00 for the cancellation of U.S. Registration No.: 2,963,259.

WHEREFORE, Petitioner prays that Registration No. 2,963,259 be cancelled, and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully Submitted,
INTELLECTULAW
THE LAW OFFICES OF P.B. TUFARIELLO, P.C.

Dated: _____

09/15/08

By: _____

Panagiotis Betty Tufanello

Panagiotis Betty Tufanello
25 Little Harbor Road
Mt. Sinai, New York 11766
Tel.: (631) 476-8734
Fax: (631) 476-8737
Email: 24yellow@optonline.net

POWER OF ATTORNEY

The Petitioner appoints Intellectulaw, The Law Offices of P.B. Tufariello, P.C. and Panagiota Betty Tufariello, Esq., Registration No. 40,851, as his attorney to prosecute this Petition for Cancellation with full power of substitution and revocation to transact all business in the United States Patent and Trademark Office in connection therewith. Please address all correspondence to:

PANAGIOTA BETTY TUFARIELLO, ESQ.
INTELLECTULAW
The Law Offices of P.B. Tufariello, P.C.
25 Little Harbor Road
Mt Sinai, NY 11766
631-476-8734 (Tel)
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24yellow@optonline.net (e-mail)
Info@intellectulaw.com (e-mail)
Betty@intellectulaw.com (e-mail)

DECLARATION

I, PANAGIOTA BETTY TUFARIELLO hereby declare:

that I am the Attorney for the Applicant that I have read and signed the foregoing Petition for Cancellation and know the contents thereof; and that the allegations are true.

I further declare that I am authorized to make this declaration;

that all statements made herein of my own knowledge are true and that 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 and imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this Cancellation.

Dated:

09/15/08


Panagiota Betty Tufariello
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EH 309181135 US envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, VA 22313-1451, on Monday, September 15, 2008. I also certify that on this date a copy of the foregoing PETITION FOR CANCELLATION dated Monday, September 15, 2008, has been forwarded to Respondent via Express Mail EH 309181161 US at the following address:

Derek L. Babcock
1463 Martin Drive
Troy, IL 62294

on Monday, September 15, 2008



Panagiota Betty Tufariello, Esq.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

United States Patent and Trademark Office
Credit Card Payment Form
 Please Read Instructions before Completing this Form

Credit Card Information

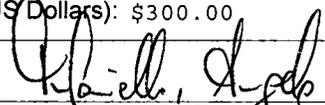
Credit Card Type: Visa MasterCard American Express Discover

Credit Card Account #: 3715 673739 52000

Credit Card Expiration Date: 10/11

Name as it Appears on Credit Card: A. TUFARIELLO

Payment Amount: \$ (US Dollars): \$300.00

Cardholder Signature: 

Date: 09/15/08

Refund Policy: The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The office will not refund amounts of \$25.00 or less unless a refund is specifically requested, and will not notify the payor of such amounts (37 CFR § 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR § 1.21 (m)).

Credit Card Billing Address

Street Address 1: 25 Little Harbor Road

Street Address 2:

City: Mt. Sinai

State/Province: New York

Zip/Postal Code: 11766

Country: USA

Daytime Phone #: 631-476-8734

Fax #: 631-476-8737

Request and Payment Information

Description of Request and Payment Information:

Patent Fee

Patent Maintenance Fee

Trademark Fee

Other Fee

Application No.

Application No.

Application No.

IDON Customer No.

Patent No.

Patent No.

Registration No.

Attorney Docket No.

Identify or Describe Mark

7247-6

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.