

ESTTA Tracking number: **ESTTA239602**

Filing date: **09/29/2008**

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	BLUE AMBROSIA, INC.		
Entity	Corporation	Citizenship	California
Address	2881 E. Pico Blvd. Los Angeles, CA 90023 UNITED STATES		

Attorney information	Todd M. Lander EZRA BRUTZKUS GUBNER LLP 21650 Oxnard St. Suite 500 Woodland Hills, CA 91401 UNITED STATES tlander@ebg-law.com, sdressler@ebg-law.com, jhenry@ebg-law.com Phone:818-827-9000
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Registration Subject to Cancellation

Registration No	3170714	Registration date	11/14/2006
Registrant	Siwy Denim of America, LLC 10 W. Juniper Lane Cleveland, OH 44022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2004/09/01 First Use In Commerce: 2004/09/01 All goods and services in the class are cancelled, namely: Clothing, namely, women's, men's, juniors and children's denims, shorts, skirts, jeans, pants, T-shirts, blouses, sweaters, shirts, cardigans, pajamas, overalls, Capri pants, sweatshirts, skorts, hats, caps, gloves, scarves, shoes, coats, jackets, pullovers, rompers, bodysuits, and undergarments

Grounds for Cancellation

Related Proceedings	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CASE NO. CV08-5545 SJO (AGRx)
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Attachments	Petition to Cancel - TR No. 3170714.pdf (5 pages)(1141102 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	/todd m. lander/
Name	Todd M. Lander
Date	09/29/2008

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Todd M. Lander
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5 tlander@ebg-law.com

6 Attorneys for Petitioner
7 Blue Ambrosia, Inc.

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

10 In the Matter of Trademark Registration No. 3170714

11 For the Mark: Logo Design Reflected on Registration Certificate

13 BLUE AMBROSIA, INC.,
14 a California corporation

15 Petitioner,

16 v.

17 SIWY DENIM OF AMERICA,
18 LLC,

19 Registrant.

PETITION TO CANCEL

20
21 **PETITION TO CANCEL**

22 Petitioner Blue Ambrosia, Inc. is a California corporation, whose principal
23 place of business is at 2881 E. Pico Boulevard, Los Angeles, CA 90023.

24 To the best of petitioner's knowledge, the name and address of the current
25 owner of the registration is Siwy Denim of America, LLC, whose principal place
26 of business is at 10 W. Juniper Lane, Cleveland, OH 44022.

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1 The above-identified petitioner believes that it will be damaged by the
2 above-identified registration, and hereby petitions to cancel the same. A copy of
3 registration certificate number 3170714 is attached to this petition as Exhibit 1.

4 The grounds for cancellation are as follows:

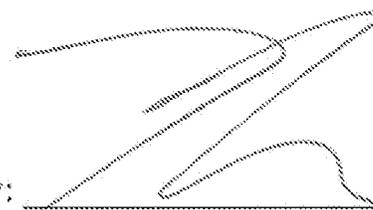
5 1. The Mark in question is purely ornamental in nature, and therefore is
6 not entitled to registration.

7 2. On information and belief, the registrant fraudulently procured
8 registration by misrepresenting to the examiner that the mark maintained
9 distinctiveness of the registrant's goods and/or services, and thereby improperly
10 inducing the registration of the mark.

11 5. Petitioner, by this Petition to Cancel, hereby notifies the Trademark
12 Trial and Appeal Board that petitioner and registrant are parties to a civil action in
13 the United States District Court for the Central District of California, Case No. CV
14 08-5545 SJO (AGRx)) entitled Siwy Denim of America, LLC, Plaintiff, v.
15 Charlotte Russe Holding, Inc., a Delaware Corporation, BLUE AMBROSIA, INC.,
16 a California Corporation, and DOES 1-10, inclusive.

17 WHEREFORE, petitioner requests that the Registration No.3170714 for the
18 logo design reflected on the registration certificate.

19
20 Dated: September 29, 2008

21
22 By: 

23 Mark D. Brutzkus
24 Todd M. Lander
25 Attorneys for Petitioner
26 Blue Ambrosia, Inc.
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Int. Cl.: 25

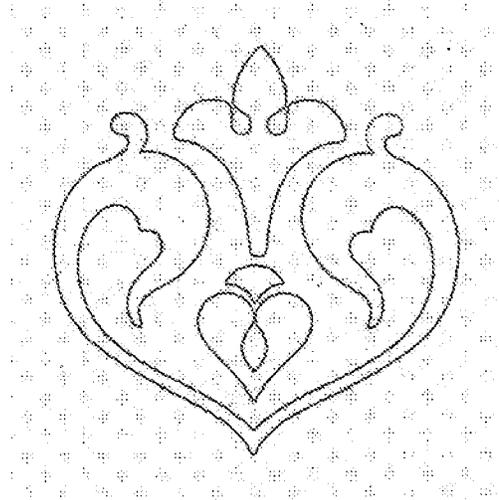
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,170,714

Registered Nov. 14, 2006

TRADEMARK
PRINCIPAL REGISTER



SIWY DENIM OF AMERICA, LLC (OHIO LTD
LIAB CO)
10 W. JUNIPER LANE
CLEVELAND, OH 44022

FOR: CLOTHING, NAMELY, WOMEN'S, MEN'S,
JUNIORS AND CHILDREN'S DENIMS, SHORTS,
SKIRTS, JEANS, PANTS, T-SHIRTS, BLOUSES,
SWEATERS, SHIRTS, CARDIGANS, PAJAMAS,
OVERALLS, CAPRI PANTS, SWEATSHIRTS,
SKORTS, HATS, CAPS, GLOVES, SCARVES, SHOES.

COATS, JACKETS, PULLOVERS, ROMPERS, BODY-
SUITS, AND UNDERGARMENTS, IN CLASS 25 (U.S.
CLS. 22 AND 39).

FIRST USE 9-1-2004; IN COMMERCE 9-1-2004.

SEC. 2(F).

SER. NO. 78-604,714, FILED 4-8-2005.

TINA L. SNAPP, EXAMINING ATTORNEY

EXHIBIT 1

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

3 I am employed in the County of Los Angeles, State of California. I am over
4 the age of 18 and not a party to the within action; my business address is 21650
5 Oxnard Street, Suite 500, Woodland Hills, California 91367, Telephone: 818-827-
9000, Facsimile: 818-827-9099.

6 On September 29, 2008, I served the foregoing document described as
7 **PETITION TO CANCEL** on the interested parties in this action by placing a true
copy thereof enclosed in sealed envelope(s) addressed as follows:

8 ***SEE ATTACHED SERVICE LIST***

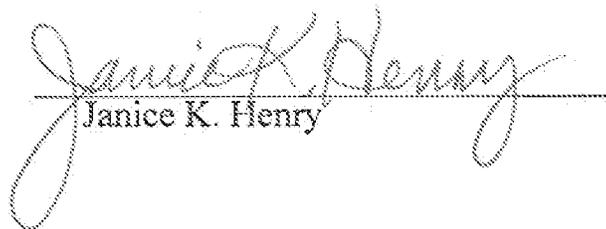
9 **(BY MAIL)** I caused such envelope with postage thereon fully prepaid to be
10 placed in the U.S. mail at Woodland Hills, California. I am "readily
11 familiar" with the firm's practice of collection and processing
12 correspondence for mailing. It is deposited with U.S. Postal Service on that
same day in the ordinary course of business. I am aware that on motion of a
party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in
affidavit.

13 **(BY PERSONAL DELIVERY)** I caused such envelope to be delivered by
14 hand by [Name and address of courier service], to the office of the
addressee(s) noted on the attached Service List.

15 **(BY FACSIMILE TRANSMISSION)** I caused such document to be
16 transmitted to the addressee(s) facsimile number noted above. The facsimile
17 machine I used complied with CRC Rule 2003(3) and the transmission was
reported as complete and without error. Pursuant to CRC Rule 2008(4), I
18 caused the machine to print a transmission record of the facsimile
transmission.

19 **(BY FEDEX / OVERNITE EXPRESS)** I caused such envelope to be
20 deposited at the FedEx / Overnite Express drop box at Woodland Hills,
California. I am "readily familiar" with the firm's practice of collection and
21 processing correspondence for mailing. It is deposited with FedEx /
Overnite Express that same day in the ordinary course of business.

22 Executed on September 29, 2008, at Woodland Hills, California, I declare
23 under penalty of perjury under the laws of the State of California that the above is
true and correct and, that I am employed in the office of a member of the bar of
24 this court at whose direction the service was made.

25 
26 _____
27 Janice K. Henry
28

SERVICE LIST

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Christopher Q. Pham Gareeb Pham LLP 707 Wilshire Boulevard, Suite 5300 Los Angeles, CA 90017 T: (213) 455-2930 F: (213) 455-2940	<u>Attorney for Registrant</u> Siwy Denim of America, LLC
Siwy Denim of America, LLC 10 W. Juniper Lane Cleveland, OH 44022	