

ESTTA Tracking number: **ESTTA248664**

Filing date: **11/13/2008**

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	Game Sportswear, Ltd.		
Entity	Corporation	Citizenship	New York
Address	1401 Front Street Yorktown Heights, NY 10598 UNITED STATES		

Attorney information	Thomas A. Gallagher, Esq. 107 Barclay Drive Stamford, CT 06903 UNITED STATES tomgallagher@mac.com Phone:203-329-9898		
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Registration Subject to Cancellation

Registration No	2720097	Registration date	05/27/2003
Registrant	Stripling Vandous E. 801 Sabona Dr. Desoto, TX 75115 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2001/07/23 First Use In Commerce: 2002/03/05 All goods and services in the class are cancelled, namely: T-shirts, shirts, sweat shirts, sweat pants, pants, shorts, hats, caps, visors, socks, underwear, shoes, sandals, jackets, coat
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Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
The mark comprises matter that, as a whole, is functional	Trademark Act section 2(e)(5)
Abandonment	Trademark Act section 14

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2374092	Application Date	05/02/1995
Registration Date	08/08/2000	Foreign Priority Date	NONE
Word Mark	G GAME SPORTSWEAR		

Design Mark	G GAME SPORTSWEAR
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1992/03/01 First Use In Commerce: 1992/03/01 clothing, namely sports jackets and sweatshirts, not sold directly to the retail public where the marks would appear on the goods as a logo or insignia

Attachments	74669217#TMSN.gif (1 page)(bytes) PetitiontoCancel.pdf (2 pages)(71763 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	/tag/
Name	Thomas A. Gallagher, Esq.
Date	11/13/2008

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

In the matter of trademark Registration No.: **2720097**

For the mark: **GAME**

Registered: **May 27, 2003**

Game Sportswear, Ltd.,)
 Petitioner)
)
)
)
)
Vandous E. Stripling,)
 Registrant)

PETITION TO CANCEL

Petitioner, Game Sportswear, Ltd., is a corporation existing under the laws of the State of New York having an address of 1401 Front Street, Yorktown Heights, NY 10598.

To the best of Petitioner’s knowledge, the name and address of the current owner of the registration are Vandous E. Stripling, 801 Sabona Dr., Desoto, TX 75115.

The above-identified Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner is now and has been for many years engaged in the sale of clothing, namely sports jackets, sweat suits, various athletic wear and sportswear.
2. Petitioner is now and has been using the mark G GAME SPORTSWEAR on such goods since at least as early as 1992.
3. Petitioner is also the owner of U.S. Trademark Registrations number 2,374,092 and number 3,487,044 for the mark G GAME SPORTSWEAR in International Class 25.
4. By virtue of Petitioner’s efforts, and the expenditure of considerable time and money for promotional activities, the public has come to recognize G GAME SPORTSWEAR as exclusively indicating Petitioner as a source of such goods.

5. In an effort to naturally expand Petitioner's brand recognition. Petitioner has filed application serial number 77126502 for GAME and Design, being the same design as the specimens submitted in Registrations number 2,374,092 and number 3,487,044 and has filed application serial number 77126522 which is similar to serial number 77126502.

6. The goods listed in the Registrant's registration are similar to and overlap with the goods sold by the Petitioner.

7. Petitioner's applications serial number 77126502 and serial number 77126522 have been refused because of a likelihood of confusion with the mark in Registration No. 2,720,097.

8. Petitioner's first use of the mark G GAME SPORTSWEAR predates Registrant's application date and Registrant's first use of the mark GAME.

9. On information and belief, Registrant has never used the word GAME as a trademark but only as ornamentation on a shirt.

10. On information and belief, Registrant never used the word GAME as a trademark in commerce controlled by congress before the filing of the statement of use in application number 78074635.

11. On information and belief, Registrant is not currently using the word GAME as a trademark in commerce controlled by congress.

12. Based upon the foregoing, Registration No. 2720097 will cause injury and damage to the Petitioner, and cancellation of the registration is requested.

/tag/

By: _____
Thomas A. Gallagher
Attorney for Petitioner

107 Barclay Drive
Stamford, CT 06903

203-329-9898