

ESTTA Tracking number: **ESTTA269221**

Filing date: **02/27/2009**

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	Max Mara International S.A.		
Entity	Corporation	Citizenship	Luxembourg
Address	12 Avenue de la Liberte L-1930 Luxembourg, LUXEMBOURG		

Attorney information	Michael A. Grow Arent Fox LLP 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES henrye@arentfox.com, TMDocket@arentfox.com, grow.michael@arentfox.com Phone:202 857 6389
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Registration Subject to Cancellation

Registration No	1717772	Registration date	09/22/1992
Registrant	OPTICAL FASHION CENTER, INC. 309 N. BEVERLY DRIVE BEVERLY HILLS, CA 90210 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 1987/03/00 First Use In Commerce: 1987/06/10 All goods and services in the class are cancelled, namely: eyeglasses, sunglasses and cases for eyeglasses
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	opticalfashioncanc.pdf (3 pages)(121483 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	/Michael A. Grow/
Name	Michael A. Grow

Date	02/27/2009
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration No. 1717772 for the mark MAX & CO. issued on September 22, 1992

MAX MARA INTERNATIONAL, S.A.	:	
	:	
Petitioner	:	
	:	
v.	:	Canc. No. _____
	:	
OPTICAL FASHION CENTER, INC.	:	
	:	
Registrant	:	

PETITION FOR CANCELLATION

Petitioner Max Mara International S.A., a Luxembourg corporation, having an address of 12 Avenue de la Liberte L-1930, Luxembourg, believes it will be damaged by the continued existence of Registration No. 1717772 for the mark MAX & CO., and hereby petitions to cancel this registration pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. §1064. As grounds for cancellation, Petitioner alleges that:

1. Petitioner is the owner of all right, title and interest in and to the marks MAX & CO. and MAXMARA (collectively, Petitioner's Marks). MAX & CO. is registered for jewelry and MAXMARA is registered for a variety of goods including eyeglasses. Petitioner's Marks have become well known and famous through extensive use and advertising, and Petitioner's Marks have become a highly valuable symbol of Petitioner's goodwill.

2. The Patent and Trademark Office has recognized Petitioner's exclusive right to use Petitioner's Marks by issuing the following registrations.

- a. Registration No. 2231279, MAX & CO. dated March 16, 1999
- b. Registration No. 1910995, MAXMARA dated August 15, 1995.

3. These registrations are valid and subsisting. Registration No. 2231279 is incontestable. Accordingly, it provides prima facie and conclusive evidence of Petitioner's ownership of said mark, and of its exclusive right to use the mark in commerce.

4. Petitioner has used and is using the marks MAX & CO. and MAXMARA extensively in commerce.

5. Upon information and belief, Registrant has discontinued any use of its alleged mark in commerce on the goods listed in the registration for at least the preceding three years without an intent to resume use.

ABANDONMENT

6. Registration No. 1717772 should be canceled because the mark shown therein has been abandoned.

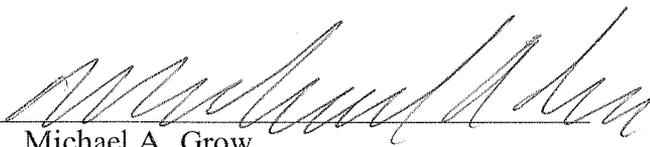
7. On information and belief, any rights in the mark MAX & CO. that Registrant might ever have claimed were abandoned through non-use in that Registrant has ceased using the mark with an intent not to resume use.

8. On information and belief, Registrant is not entitled to continued registration of the mark because Registrant has no bona fide intent to use or to resume use of the mark in connection with all of the goods listed in the registration.

9. For the forgoing reasons petitions will be damaged if the aforesaid registration is not cancelled.

WHEREFORE, Petitioner prays that this petition for cancellation be granted and that the registration be cancelled.

MAX MARA INTERNATIONAL, S.A.

By 

Michael A. Grow
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 857-6000

February 27 2009

Attorney for Petitioner

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Petition for Cancellation (re R/N 1717772) is being served upon Registrant Optical Fashion Center, Inc. at 309 N. Beverly Drive, Beverly Hills, California 90210, by first class mail, postage prepaid, on February 27, 2009.

