

ESTTA Tracking number: **ESTTA283891**

Filing date: **05/14/2009**

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	Dallas C. Brown Jr.		
Entity	Individual	Citizenship	UNITED STATES
Address	17 Devant Drive East Bluffton, SC 29909 UNITED STATES		

Attorney information	David H.E. Bursik, Esq. 401 Hamburg Turnpike Suite 210 Wayne, NJ 07470 UNITED STATES dheb@bursik.com Phone:973-904-1040		
----------------------	---	--	--

### Registrations Subject to Cancellation

Registration No	2791896	Registration date	12/09/2003
Registrant	Bishop, Courtney L. 30 E. Georgia St., Ste. #208 Indianapolis, IN 46204 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 035. First Use: 1991/09/01 First Use In Commerce: 1992/05/15 All goods and services in the class are cancelled, namely: Retail store and/or on-line computerized ordering services featuring bicycles, bicycle equipment, bicycle clothing, shoes, and apparel; Promoting bicycle sports, bicycle competitions and/or events of other
---

### Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Registration No	2701247	Registration date	03/25/2003
Registrant	Bishop, Courtney L. 30 East Georgia St., Ste. #208 Indianapolis, IN 46204 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 036. First Use: 2000/06/01 First Use In Commerce: 2002/06/01 All goods and services in the class are cancelled, namely: Financial and insurance underwriting services pertaining to Fund Raising Associations, Foundations, Charitable not for profit organizations Covering activities held within the normal scope of operations for these organizations, namely, fundraisers
---

## Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments	PETITION FOR CANCELLATION 5-14-09.pdf ( 4 pages )(24419 bytes )
-------------	---

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/David H.E. Bursik, Esq./
Name	David H.E. Bursik, Esq.
Date	05/14/2009

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

	:	
DALLAS C. BROWN, JR.,	:	Cancellation No.
Petitioner,	:	Registration No. 2791896
v.	:	Registration No. 2701247
	:	Marks: MAJOR TAYLOR
	:	
COURTNEY L. BISHOP,	:	
Registrant.	:	
	:	

TO:

ASSISTANT COMMISSIONER FOR TRADEMARKS  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**PETITION FOR CANCELLATION**

Dallas C. Brown, Jr. (hereinafter referred to as "Petitioner") by and through his attorney, alleges that he will be damaged by the continued registration of Registration No. 2791896 for the mark MAJOR TAYLOR and Registration No. 2701247 for the mark MAJOR TAYLOR, both registered to Courtney L. Bishop, an individual, (herein referred to as "Registrant") and petitions to cancel these two identified registrations.

**THE PARTIES**

1. Petitioner is an individual and a resident of the State of South Carolina with a residential address of 17 Devant Drive East, Bluffton, South Carolina 29909. Petitioner is the sole grandchild of Marshall W. ("Major") Taylor and is the closest living relative to the deceased individual Marshall W. ("Major") Taylor (hereinafter referred to as "Major Taylor").

2. Registrant is, upon information and belief, an individual resident of the State of Indiana with an address of record at the Trademark Office of 30 E. Georgia Street, Suite 208,

Indianapolis, Indiana 46204. Upon information and belief, the Registrant has a home address of 10377 Alice Court, Fishers, Indiana 46038.

**COUNT 1 FOR CANCELLATION-FRAUD ON THE TRADEMARK OFFICE**

3. Petitioner incorporates the prior allegations herein as if set forth at length.

4. Major Taylor is the well known alternative name by which the deceased individual Marshall W. Taylor was known. Major Taylor was born on November 26, 1878 and he died on June 21, 1932. Major Taylor has living descendants to the present day.

5. In the application filed by Registrant for registration of the MAJOR TAYLOR trademark which resulted in the issuance of Trademark Registration No. 2791896 and in the application filed by Registrant for registration of the MAJOR TAYLOR trademark which resulted in the issuance of Trademark Registration No. 2701247, Registrant filed a Declaration that "to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive". Upon information and belief, at the time that Registrant made this declaration and filed same with the U.S. Trademark Office, Registrant knew or believed such statement to be false. Registrant knew at the time that he filed this Declaration that others were using the name MAJOR TAYLOR in commerce and that family members of MAJOR TAYLOR were alive .

6. Accordingly, the Trademark Registrations sought to be cancelled herein were obtained by reason of this fraud upon the Trademark Office.

WHEREFORE, Petitioner will be damaged by the continuing registration of Registration No. 2791896 for MAJOR TAYLOR and Registration No. 2701247 for MAJOR TAYLOR, and requests that the registrations be cancelled.

**COUNT 2 FOR CANCELLATION**

**ILLEGALITY OF ADOPTION OF TRADEMARK UNDER INDIANA LAW**

7. Petitioner incorporates the prior allegations herein as if set forth at length.
8. Upon information and belief, at all times relevant hereto, the Registrant has been a resident of the State of Indiana.
9. The State of Indiana Code of Statutes contains a chapter relating to the Rights of Publicity as set forth in Chapter IC 32-26.
10. This chapter prohibits a person from making commercial use of the name or assumed name of a deceased individual for one hundred(100) years following the death of such individual without getting the written consent from the estate of the deceased. Registrant never obtained permission or consent from the estate or family of the deceased Major Taylor prior to making commercial use of the MAJOR TAYLOR name and trademark.
11. The adoption and commercial use by Registrant of the MAJOR TAYLOR name and trademarks was and is illegal and, for this additional reason, the above-identified registrations should be cancelled.

WHEREFORE, Petitioner will be damaged by the continuing registration of Registration No. 2791896 for MAJOR TAYLOR and Registration No. 2701247 for MAJOR TAYLOR, and requests that the registrations be cancelled.

**COUNT 3 FOR CANCELLATION**

**ILLEGALITY OF ADOPTION OF TRADEMARK UNDER FEDERAL LAW**

12. Petitioner incorporates the prior allegations herein as if set forth at length.

13. Registrant's use and registration of MAJOR TAYLOR trademarks falsely suggests a connection with Major Taylor. Accordingly, the use and registration of the MAJOR TAYLOR trademarks by Registrant is illegal pursuant to 15 U.S.C. §1052(a), and this registration should be cancelled for this additional reason.

WHEREFORE, Petitioner will be damaged by the continuing registration of Registration No. 2791896 for MAJOR TAYLOR and Registration No. 2701247 for MAJOR TAYLOR, and requests that the registrations be cancelled.

Respectfully submitted,

/David H.E. Bursik, Esq./

*David H.E. Bursik*

---

David H.E. Bursik, Esq.  
401 Hamburg Turnpike, Suite 210  
Wayne, New Jersey 07470  
Tel. 1-973-904-1040  
Fax. 1-973-904-1050  
Email-dheb@bursik.com  
Attorney for Petitioner

Of Counsel to Petitioner:  
Theodore E. Kyles, Jr., Esq.  
685 Van Houten Avenue  
Clifton, New Jersey 07013

Date: May 14, 2009