

ESTTA Tracking number: **ESTTA286074**

Filing date: **05/27/2009**

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	Homegrown Lacrosse Corporation		
Entity	Corporation	Citizenship	Minnesota
Address	2204 West 21st Street Minneapolis, MN 55405 UNITED STATES		

Attorney information	Bradley J. Walz Winthrop & Weinstine, P.A. 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 UNITED STATES bwalz@winthrop.com, trademark@winthrop.com Phone:612-604-6725		
----------------------	---	--	--

Registration Subject to Cancellation

Registration No	3368803	Registration date	01/15/2008
Registrant	Home Grown Lacrosse, LLC 400 Osgood Street North Andover, MA 01845 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2006/03/01 First Use In Commerce: 2006/06/10 All goods and services in the class are cancelled, namely: Providing lacrosse training services

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77582588	Application Date	09/30/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOMEGROWN LACROSSE		

Design Mark	HOMEGROWN LACROSSE
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/02/29 First Use In Commerce: 2004/02/29 Amateur youth sports services, namely, organizing and providing youth sports activities; Encouraging amateur sports and physical education by organizing, sanctioning, conducting, regulating and governing amateur athletic programs and activities; Operation of sports camps; Organisation of sports competitions; Providing a web site featuring information on youth sports; Sport camp services; Sport camps; Sports training services

U.S. Application No.	77620236	Application Date	11/23/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HOMEGROWN LACROSSE
Design Mark	HOMEGROWN LACROSSE
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/06/20 First Use In Commerce: 2005/06/20 Hoods; Jerseys; Tops; Wearable garments and clothing, namely, shirts

Attachments	77582588#TMSN.jpeg (1 page)(bytes) 77620236#TMSN.jpeg (1 page)(bytes) Petition for Cancellation 14418 3.pdf (5 pages)(192624 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 First Class Mail on this date.

Signature	/Bradley J. Walz/
Name	Bradley J. Walz
Date	05/27/2009

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

Homegrown Lacrosse Corporation,)	
)	
Petitioner,)	
)	
v.)	
)	Cancellation No. _____
Home Grown Lacrosse, LLC,)	
)	
Respondent.)	
)	_____

PETITION FOR CANCELLATION

Commissioner for Trademarks
P.O. Box
Alexandria, VA 22313-1451

Homegrown Lacrosse Corporation (“Petitioner”), a Minnesota corporation, having a principal place of business at 2204 West 21st Street, Minneapolis, MN 55405, believes that it is and will continue to be damaged by the registration of HOME GROWN LACROSSE (U.S. Registration No. 3,368,803) on the Principal Register and hereby petitions to cancel the same pursuant to the provisions of Lanham Act § 18, 15 U.S.C. § 1064 (2008). The grounds for cancellation are as follows:

1. Since at least as early as February 2, 2004, Petitioner’s HOMEGROWN LACROSSE mark for amateur youth sports services has been continuously used in commerce. Additionally, since at least as early as June 20, 2005, Petitioner’s HOMEGROWN LACROSSE mark for clothing has been continuously used in commerce. Petitioner has spent and continues to spend a significant amount of time, money, and effort in promoting its distinctive HOMEGROWN LACROSSE trademark and enjoys an excellent reputation and significant goodwill in HOMEGROWN LACROSSE as a mark that identifies, distinguishes, and indicates

Petitioner as the source of amateur youth sports services and clothing. Indeed, Petitioner has a close relationship with the Minnesota Swarm professional lacrosse franchise that promotes Petitioner's amateur youth sports services under its HOMEGROWN LACROSSE mark.

2. U.S. Reg. No. 3,368,803 was federally registered by Home Grown Lacrosse, LLC ("Respondent") on May 10, 2007, over three years after Petitioner first used its HOMEGROWN LACROSSE mark.

3. Respondent claims March 1, 2006 as its date of first use and June 10, 2006 as its date of first use in commerce.

4. Petitioner used its HOMEGROWN LACROSSE mark over two years prior to Respondent's claimed date of first use.

5. Petitioner has priority to use its HOMEGROWN LACROSSE mark.

6. On information and belief, Respondent's HOME GROWN LACROSSE mark is identical to Petitioner's HOMEGROWN LACROSSE mark.

7. Respondent's registered its HOME GROWN LACROSSE mark for "Providing lacrosse training services" ("Respondent's Services").

8. On September 30, 2008, Petitioner applied to register its HOMEGROWN LACROSSE mark in connection with "Amateur youth sports services, namely, organizing and providing youth sports activities; Encouraging amateur sports and physical education by organizing, sanctioning, conducting, regulating and governing amateur athletic programs and activities; Operation of sports camps; Organisation of sports competitions; Providing a web site featuring information on youth sports; Sport camp services; Sport camps; Sports training services" ("Petitioner's Services"), U.S. Application Serial No. 77/582,588 (the "Service Mark Application").

9. On November 23, 2008, Petitioner applied to register its HOMEGROWN LACROSSE mark in connection with “Hoods; Jerseys; Tops; Wearable garments and clothing, namely, shirts” (“Petitioner’s Goods”), U.S. Application Serial No. 77/620,236 (the “Trademark Application”). Petitioner’s Services and Petitioner’s Goods are collectively referred to as “Petitioner’s Products” and Petitioner’s Service Mark Application and Trademark Application are collectively referred to as the “Applications.”

10. Petitioner promotes Petitioner’s Goods in connection with Petitioner’s Services.

11. On information and belief, Petitioner’s Products are related to and overlap with Respondent’s Services.

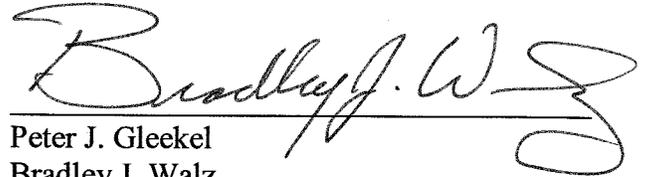
12. On information and belief, the HOME GROWN LACROSSE mark displayed in U.S. Registration No. 3,368,803 is likely to cause confusion with the HOMEGROWN LACROSSE mark displayed Petitioner’s Applications.

13. Petitioner is likely to be damaged by the continued registration of U.S. Registration No. 3,368,803 because the Examining Attorney assigned to Petitioner’s Service Mark Application has refused registration of Petitioner’s HOMEGROWN LACROSSE mark under Section 2(d) of the Lanham Act based on U.S. Registration No. 3,368,803.

WHEREFORE, Petitioner respectfully requests that the Board grant its petition for cancellation of U.S. Registration No. 3,368,803, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064 (2008).

Respectfully Submitted,

WINTHROP & WEINSTINE, P.A.



Peter J. Gleekel

Bradley J. Walz

225 South Sixth Street, Suite 3500

Minneapolis, MN 55402-4629

Telephone: (612) 604-6400

Facsimile: (612) 604-6800

ATTORNEYS FOR PETITIONER
HOMEGROWN LACROSSE
CORPORATION

Date: May 27, 2009

4430148v1

