

ESTTA Tracking number: **ESTTA296575**

Filing date: **07/21/2009**

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	Shelby Group International		
Entity	Corporation	Citizenship	USA
Address	5321 E. Shelby Drive Memphis, TN 38118 UNITED STATES		

Attorney information	Adam S. Baldridge Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. 165 Madison Avenue Suite 2000 Memphis, TN 38103 UNITED STATES abaldridge@bakerdonelson.com, amorris@bakerdonelson.com Phone:901-526-2000
----------------------	---

Registrations Subject to Cancellation

Registration No	3306530	Registration date	10/09/2007
Registrant	Barbwire, LLC #226 8711 E. Pinnacle Road Scottsdale, AZ 85255 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2004/05/00 First Use In Commerce: 2004/12/00
All goods and services in the class are cancelled, namely: Retail apparel store

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3306533	Registration date	10/09/2007
Registrant	Barbwire, LLC #226 8711 E. Pinnacle Peak Road Scottsdale, AZ 85255 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2004/05/00 First Use In Commerce: 2004/12/00
All goods and services in the class are cancelled, namely: Retail apparel store

Grounds for Cancellation

Abandonment	Trademark Act section 14		
-------------	--------------------------	--	--

Attachments	Shelby Grp - Petition for Cancellation (Filed 07-21-09).pdf (4 pages)(26878 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	/Adam S. Baldrige/
Name	Adam S. Baldrige
Date	07/21/2009

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

SHELBY GROUP INTERNATIONAL)	
)	
Petitioner,)	
)	
v.)	Opposition No.: _____
)	
BARBWIRE, LLC)	Registration No.: 3306530
)	Registration No.: 3306533
Registrant.)	

PETITION FOR CANCELLATION

Shelby Group International ("Petitioner"), a Tennessee corporation, located at 5321 E. Shelby Drive, Memphis, Tennessee, 38118, believes that it is being damaged by U.S. Trademark Registration No. 3306530 and U.S. Trademark Registration No. 3306533 (collectively "Registrations") and hereby petitions to cancel the same.

To the best of Petitioner's knowledge, the names and address of the current owner of the Registrations is Barbwire, LLC (hereinafter referred to as "Registrant"), a limited liability company of Arizona, whose last known address is 8711 E. Pinnacle Road, Scottsdale, Arizona 85255.

As grounds for this Petition, it is alleged that:

1. Registrant owns U.S. Registration No. 3306530 for BARBWIRE WESTERN COUTURE (and design) for "retail apparel store" in International Class 35 ("registered goods").

2. Registrant owns U.S. Registration No. 3306533 for BARBWIRE WESTERN COUTURE for "retail apparel store" in International Class 35 ("registered goods").
3. Upon information and belief, use by Registrant of the marks BARBWIRE WESTERN COUTURE and BARBWIRE WESTERN COUTURE (and design) on the registered goods in the United States and/or in commerce within the United States has been discontinued with intent not to resume such use.
4. On August 5, 2008, Petitioner filed U.S. Application Serial Number 77/538,921 with the United States Patent and Trademark Office as an intent to use trademark application under § 1(b) for the mark BARBWIRE for "eyewear" in International Class 09.
5. In an Office Action dated March 30, 2009, the Trademark Office refused Petitioner's Application for the mark BARBWIRE on the basis of likelihood of confusion with Registrant's Registrations for the marks BARBWIRE WESTERN COUTURE and BARBWIRE WESTERN COUTURE (and design). As a result, Petitioner seeks to cancel Registrant's Registrations so that Petitioner's Application for its mark BARBWIRE will be allowed and the examiner's refusal withdrawn.
6. If Registrant's abandoned Registrations are not cancelled, the continued existence of such registrations casts a cloud upon Petitioner's right to use, register, and

expand the use of its mark BARBWIRE. Thus, the Registrations are a source of damage and injury to Petitioner.

7. The fee required in 37 C.F.R. § 2.6(a)(16) is enclosed herewith.

WHEREFORE, Petitioner prays that U.S. Registration No. 3306530 and U.S. Registration No. 3306533 be canceled pursuant to Section 14(3) of the Lanham Act, 15 U.S.C. § 1064(3), and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner hereby appoints Grady M. Garrison and Adam S. Baldridge to prosecute this Cancellation and transact all business in the Trademark Trial and Appeal Board connected therewith. Please send all correspondence to the attention of:

Adam S. Baldridge
BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ, P.C.
165 Madison Ave., Suite 2000
Memphis, Tennessee 38103
(901) 526-2000 (office)
(901) 577-2303 (facsimile)

Respectfully submitted,

July 21, 2009

/Adam S. Baldridge/
Grady M. Garrison
Adam S. Baldridge
BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ, P.C.
165 Madison Ave., Suite 2000
Memphis, Tennessee 38103
(901) 526-2000 (office)
(901) 577-2303 (fax)
email: ggarrison@bakerdonelson.com
email: abaldridge@bakerdonelson.com

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petition for Cancellation on:

James E. Austin
P.O. Box 70250
Oakland, CA 94612

By causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

 X By mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Memphis, Tennessee.

 By hand delivery.

 By sending via overnight courier in a sealed envelope.

 By faxing to the attorney at the fax number that is the last-known fax number.

 By electronic mail to the last known e-mail address.

DATED: July 21, 2009

/Adam S. Baldridge/