

ESTTA Tracking number: **ESTTA314936**

Filing date: **11/03/2009**

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	Effigi Inc.		
Entity	Corporation	Citizenship	Canada
Address	1155 Autoroute 13 Laval, QC H7W 5J8 CANADA		

Attorney information	Gene S. Winter, Esq. ST. ONGE STEWARD JOHNSTON & REENS LLC 986 BEDFORD STREET Stamford, CT 06905 UNITED STATES litigation@ssjr.com, acorea@ssjr.com Phone:203-324-6155		
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**Registration Subject to Cancellation**

Registration No	2948299	Registration date	05/10/2005
Registrant	Briggs, Dennis G. 3730 Loyola Ct. Chino, CA 91710 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2003/10/20 First Use In Commerce: 2004/01/10 All goods and services in the class are cancelled, namely: Clothing, namely men's, women's, and children's shirts, T- shirts, sport shirts, shorts, skirts, pants, slacks, sweaters, sweatshirts, jackets, hats, gloves
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Petition to Cancel.pdf ( 14 pages )(1183226 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	/Andy I. Corea/
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Name	Andy I. Corea
Date	11/03/2009



bags, namely sports bags, gym bags, beach bags, diaper bags, backpacks, handbags, travel bags, school bags, shoe bags, fanny packs, hiking bags, shoulder bags, tote bags, baby carriers worn on the body” and,

clothing, namely sweaters, T-shirts, camisoles, vests, cardigans, turtlenecks, dresses, underwear, culottes, midriff tops, slips, pants, jeans, jackets, Bermuda shorts, shorts, skirts, suits, jumpsuits, overalls, blouses, blazers, ski suits, overcoats, parkas, anoraks, raincoats, rain slickers, sweatshirts, hooded sweatshirts, jerseys, jogging outfits, mittens, gloves, pajamas, nightgowns, baby dolls, nighties, dressing gowns, bathrobes, sleeping garments, baby bibs not of paper, beachwear, swim suits, leotards, coats, slipovers, polo shirts, boxer shorts; headwear, namely hats, skull caps, berets, headbands, kerchiefs, ear muffs, toques, caps; fashion accessories, namely belts, suspenders, neckties, scarves, bandannas; footwear, namely street shoes, leisure shoes, sports footwear, beach footwear, children's footwear, evening footwear, exercise footwear, fishing footwear, golf footwear, winter footwear, rain footwear, ski footwear.”

(“Petitioner’s Application”)

A copy of the USPTO TARR database record for Application Serial No. 77683394 is attached as Exhibit B and made of record.

4. Petitioner’s Application has been refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based on the Trademark Examining Attorney’s conclusion that the Petitioner’s trademark DEFROST is likely to be confused with Registrant’s trademark DEFROST when used on the parties’ identified goods.

5. On information and belief, Registrant has ceased use of the trademark DEFROST on or in connection with some or all of the goods identified in U.S. Registration No. 2,948,299 and intends not to resume such use.

6. On information and belief, Registrant has not used the trademark DEFROST on or in connection with the goods identified in U.S. Registration No. 2,948,299 for a period of at least three consecutive years.

7. On information and belief, Registrant has abandoned the trademark DEFROST within the meaning of 15 U.S.C. § 1127.

8. On information and belief, Registrant was not using the mark DEFROST on all the goods listed in the Statement of Use filed by Applicant on April 20, 2004.

9. On information and belief, Registrant knew at the time it filed its Statement of Use that it was not using the mark DEFROST on all the goods listed in the Statement of Use.

10. On information and belief, Registrant filed its Statement of Use on April 20, 2004 with the intention of obtaining a trademark registration that would include in its identification of goods items on which Registrant had not commenced use.

11. On information and belief, Registrant has committed fraud in the procurement of U.S. Registration 2,948,299 within the meaning of 15 U.S.C. § 1064 when it knowingly filed a Statement of Use that included goods that were not in use under the DEFROST mark.

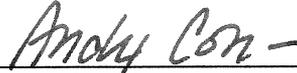
12. On information and belief, Registrant intended to commit fraud upon the United States Patent and Trademark Office when it filed its Statement of Use on April 20, 2004 that included goods that were not in use under the DEFROST mark.

13. Petitioner has been and continues to be damaged by U.S. Trademark Registration No. 2,948,299.

WHEREFORE, Petitioner prays that the Trademark Trial and Appeal Board grant its petition and cancel U.S. Trademark Registration No. 2,948,299.

Respectfully submitted,

November 3, 2009



Gene S. Winter  
Andy I. Corea  
ST. ONGE STEWARD JOHNSTON & REENS, LLC  
986 Bedford Street  
Stamford, CT 06905  
Telephone: (203) 324-6155  
Facsimile: (203) 327-1096  
Email: [litigation@ssjr.com](mailto:litigation@ssjr.com)

Attorneys for Petitioner

**Certificate of Electronic Filing:**

I hereby certify that this document is today being submitted via electronic filing utilizing the ESTTA system.

Dated: November 3, 2009



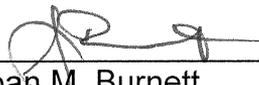
For St. Onge Steward Johnston & Reens LLC

**CERTIFICATE OF SERVICE**

This is to certify that on this date, a true copy of the foregoing **PETITION TO CANCEL and EXHIBITS A - B** are being served, by first class mail, postage prepaid, to the owner of record of U.S. Registration No. 2,948,299 at the address for the party identified as "Last Owner of Record" in the USPTO TARR database:

Dennis G. Briggs  
3730 Loyola Ct.  
Chino, CA 91710

Nov 3, 2009  
Date:

  
\_\_\_\_\_  
Joan M. Burnett

## EXHIBIT A

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2009-11-02 16:14:41 ET**

**Serial Number:** 76017008 [Assignment Information](#) [Trademark Document Retrieval](#)

**Registration Number:** 2948299

**Mark (words only):** DEFROST

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2005-05-10

**Filing Date:** 2000-04-03

**Transformed into a National Application:** No

**Registration Date:** 2005-05-10

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 108

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2005-03-30

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Briggs, Dennis G.

**Address:**

Briggs, Dennis G.  
3730 Loyola Ct.  
Chino, CA 91710  
United States

**Legal Entity Type:** Individual

**Country of Citizenship:** United States

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#### GOODS AND/OR SERVICES

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**International Class:** 025

**Class Status:** Active

Clothing, namely men's, women's, and children's shirts, T- shirts, sport shirts, shorts, skirts, pants, slacks, sweaters, sweatshirts, jackets, hats, gloves

**Basis:** 1(a)

**First Use Date:** 2003-10-20

**First Use in Commerce Date:** 2004-01-10

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2005-05-10 - Registered - Principal Register

2005-01-26 - Law Office Registration Review Completed

2004-11-30 - Allowed for Registration - Principal Register (SOU accepted)

2004-10-20 - Assigned To LIE

2004-10-20 - Assigned To LIE

2004-09-27 - PAPER RECEIVED

2004-09-17 - Case File In TICRS

2004-09-13 - Statement of use processing complete

2004-04-20 - Amendment to Use filed

2004-09-13 - Extension 3 granted

2003-12-18 - Extension 3 filed

2004-09-10 - Assigned To LIE

2004-09-10 - Assigned To LIE

2004-09-10 - Assigned To LIE

2004-09-07 - Petition To Revive-Granted

2004-08-23 - Petition to Commissioner - Petitioner response letter received  
2004-08-23 - PAPER RECEIVED  
2004-08-11 - Petition to Revive - Incomplete petition letter mailed  
2004-04-21 - Petition To Revive-Received  
2004-04-21 - PAPER RECEIVED  
2004-04-20 - TEAS Statement of Use Received  
2004-02-19 - Abandonment - No use statement filed  
2003-07-02 - Extension 2 granted  
2003-06-18 - Extension 2 filed  
2003-06-18 - TEAS Extension Received  
2003-01-23 - Extension 1 granted  
2002-12-16 - Extension 1 filed  
2002-12-16 - TEAS Extension Received  
2002-09-01 - TEAS Change Of Correspondence Received  
2002-06-18 - Noa Mailed - SOU Required From Applicant  
2002-03-26 - Published for opposition  
2002-03-06 - Notice of publication  
2001-12-04 - Approved for Pub - Principal Register (Initial exam)  
2001-11-30 - Examiner's amendment mailed  
2001-03-14 - Letter of suspension mailed  
2000-09-15 - Non-final action mailed  
2000-09-12 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**  
DENNIS G. BRIGGS  
3730 Loyola Ct.  
Chino, CA 91710

Phone Number: 909-762-0026

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## **EXHIBIT B**

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2009-11-02 16:13:09 ET**

**Serial Number:** 77683394 Assignment Information      Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**

# DEFROST

**(words only):** DEFROST

**Standard Character claim:** Yes

**Current Status:** A non-final action has been mailed. This is a letter from the examining attorney requesting additional information and/or making an initial refusal. However, no final determination as to the registrability of the mark has been made.

**Date of Status:** 2009-05-28

**Filing Date:** 2009-03-04

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 110

**Attorney Assigned:**  
HELLA AMY E

**Current Location:** M1X -TMO Law Office 110 - Examining Attorney Assigned

**Date In Location:** 2009-05-28

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. EFFIGI INC.

**Address:**

EFFIGI INC.  
1155 Autoroute 13  
Laval, Quebec H7W5J8  
Canada

**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Canada

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### GOODS AND/OR SERVICES

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**International Class:** 018

**Class Status:** Active

(Based on Section 1(b) and 44(d)) Bags, namely, sports bags, gym bags, beach bags, diaper bags, backpacks, handbags, travel bags, school bags, shoe bags, fanny packs, hiking bags, shoulder bags, tote bags, baby carriers worn on the body

**Basis:** 1(b), 44(d), 44(e)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

**International Class:** 025

**Class Status:** Active

(Based on Section 1(b) and 44(d)) Clothing, namely, overcoats, parkas, anoraks, rain slickers, sleeping garments, baby bibs not of paper; headwear, namely, skull caps, berets, ear muffs, bandannas; footwear, namely, street shoes, leisure shoes, sports footwear, beach footwear, children's footwear, evening footwear, exercise footwear, fishing footwear, golf footwear, winter footwear, rain footwear, ski footwear; (based on Section 44(e)) Clothing, namely, sweaters, T-shirts, camisoles, vests, cardigans, turtlenecks, dresses, underwear, culottes, midriff tops, slips, pants, jeans, jackets, Bermuda shorts, shorts, skirts, suits, jumpsuits, overalls, blouses, blazers, ski suits, raincoats, sweatshirts, hooded sweatshirts, jerseys, jogging outfits, mittens, gloves, pajamas, nightgowns, baby dolls, nighties, dressing gowns, bathrobes, beachwear, swim suits, leotards, coats, slipovers, polo shirts, boxer shorts; headwear, namely, hats, headbands, kerchiefs, toques, caps; fashion accessories, namely, belts, suspenders, neckties, scarves

**Basis:** 1(b), 44(d), 44(e)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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### ADDITIONAL INFORMATION

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**Foreign Application Number:** 81470901

**Country:** Canada

**Foreign Filing Date:** 2009-01-16

**Foreign Registration Number:** 478558

**Foreign Registration Date:** 1997-07-16

**Country:** Canada

**Foreign Expiration Date:** 2012-07-16

**Foreign Application Number:** 81470901

**Country:** Canada

**Foreign Filing Date:** 2009-01-16

**Foreign Registration Number:** 478558  
**Foreign Registration Date:** 1997-07-16  
**Country:** Canada  
**Foreign Expiration Date:** 2012-07-16

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-05-28 - Notification Of Non-Final Action E-Mailed  
2009-05-28 - Non-final action e-mailed  
2009-05-28 - Non-Final Action Written  
2009-05-27 - Assigned To Examiner  
2009-03-09 - New Application Office Supplied Data Entered In Tram  
2009-03-07 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Gene S. Winter

**Correspondent**

GENE S. WINTER  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
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STAMFORD, CT 06905-5610  
Phone Number: 203-324-6155  
Fax Number: 203-327-1096

**Domestic Representative**

Gene S. Winter  
Phone Number: 203-324-6155  
Fax Number: 203-327-1096

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