

ESTTA Tracking number: **ESTTA322300**

Filing date: **12/16/2009**

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	La Montre Hermes S.A.		
Entity	Corporation	Citizenship	Switzerland
Address	Erlenstrasse 31A Brugg, 2555 SWITZERLAND		

Attorney information	Andrew Baum Foley & Lardner LLP 90 Park Avenue New York, NY 10016-1314 UNITED STATES ptomailnewyork@foley.com, abaum@foley.com, emarmo@foley.com Phone:212-338-3527		
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**Registration Subject to Cancellation**

Registration No	3433601	Registration date	05/20/2008
Registrant	Akkawi, Michael 8 Plum Hollow Road East Falmouth, MA 02536 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 014. First Use: 2007/11/02 First Use In Commerce: 2007/11/02 All goods and services in the class are cancelled, namely: Clocks and watches; Jewellery and watches; Jewellery, clocks and watches; Jewelry watches; Watch bracelets
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	2753802	Application Date	04/04/2001
Registration Date	08/19/2003	Foreign Priority Date	NONE
Word Mark	CAPE COD 2 ZONES		

Design Mark	<b>CAPE COD 2 ZONES</b>
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2001/00/00 First Use In Commerce: 2001/00/00 [HOROLOGICAL AND CHRONOMETRIC INSTRUMENTS, NAMELY,] WATCHES [AND THEIR COMPONENT PARTS, WATCH BANDS AND WATCH CLASPS]

Attachments	76235715#TMSN.gif ( 1 page )( bytes ) PETITION FOR CANCELLATION.pdf ( 4 pages )(38709 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	/Andrew Baum/
Name	Andrew Baum
Date	12/16/2009

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

LA MONTRE HERMES S.A.,	)	
	)	
<i>Petitioner,</i>	)	BOX TTAB - FEE
	)	
v.	)	CANCELLATION NO.
	)	
MICHAEL AKKAWI,	)	<u>(Reg. No. 3,433,601)</u>
	)	
<i>Registrant.</i>	)	

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**PETITION FOR CANCELLATION**

La Montre Hermes S.A. (“Petitioner”), a corporation of Switzerland located at Erlenstrasse 31A, 2555 Brugg, Switzerland, believes that it is being damaged by the registration of the mark CAPE COD WATCH, U.S. Trademark Registration No. 3,433,601 covering “clocks and watches; jewelry and watches; jewelry clocks and watches; jewelry watches, watch bracelets” in International Class 14 (“Registrant’s Goods”), owned by Michael Akkawi (“Registrant”), an individual residing, upon information and belief, at 8 Plum Hollow Road, East Falmouth, Massachusetts 02536, and hereby requests cancellation of same.

The grounds for this petition are:

1. Continuously since long prior to Registrant’s first use, Petitioner has manufactured high quality watches and sold them throughout the world and the United States.

2. Continuously since long prior to Registrant's filing date and claimed date of first use, Petitioner has manufactured and sold watches throughout the United States under the name and trademark CAPE COD.

3. Petitioner's CAPE COD line of watches has been sold for many years in the United States, generating millions of dollars in revenue to Petitioner. As a result of the high quality of Petitioner's CAPE COD watches, the extensive advertising of the brand, and the wide and favorable publicity which Petitioner's CAPE COD watches has received, the trademark CAPE COD has become associated with Petitioner exclusively as a trademark for watches.

4. One of the models in Petitioner's CAPE COD line of watches is CAPE COD 2 ZONES. Petitioner has sold watches in the United States under the name and trademark CAPE COD 2 ZONES continuously since long prior to Registrant's filing date and claimed date of first use.

5. Petitioner is the owner of U.S. Trademark Registration 2,753,802 for its trademark CAPE COD 2 ZONES for watches, which registration is in full force and effect and is incontestable.

6. Registrant is the owner of U.S. Trademark Registration No. 3,433,601 for the mark CAPE COD WATCH covering Registrant's Goods.

7. Registrant's mark CAPE COD WATCH is so similar to Petitioner's trademarks CAPE COD and CAPE COD 2 ZONES that, when applied to identical goods and closely related goods, there is a likelihood of confusion, mistake or deception, which will cause damage to Petitioner.

8. Registration of Registrant's mark CAPE COD WATCH is barred by Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), because it consists of or comprises a mark which so resembles trademarks previously used and registered by Petitioner as to be likely, when applied to the goods of Registrant, to cause confusion, to cause mistake, or to deceive.

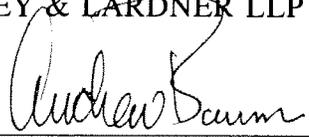
**WHEREFORE**, Petitioner prays that Registration No. 3,433,601 be cancelled.

The required fee of \$300 is being submitted with this Petition for Cancellation.

Please charge any additional costs to our Deposit Account No. 19-0741.

Respectfully submitted,

FOLEY & LARDNER LLP

By: 

Andrew Baum  
90 Park Avenue  
New York, NY 10016-1314  
Tel. (212) 338-3527  
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*Attorneys for Petitioner*  
La Montre Hermes S.A.

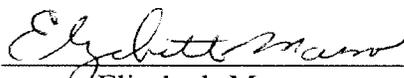
Dated: New York, New York  
December 16, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing PETITION FOR CANCELLATION was served by first-class mail to the Registrant at the address of record as follows:

Michael Akkawi  
8 Plum Hollow Road  
East Falmouth, MA 02536

Date: December 16, 2009

  
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Elizabeth Marmo