

ESTTA Tracking number: **ESTTA358100**

Filing date: **07/15/2010**

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

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| Proceeding | 92052525 |
| Party | Defendant Peace & Love Jewelry by Nancy Davis LLC |
| Correspondence Address | TAL GRINBLAT, ESQ LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN 16633 VENTURA BLVD., 11TH FLOOR ENCINO, CA 91436 UNITED STATES tgrinblat@lewitthackman.com, nkanter@lewitthackman.com |
| Submission | Answer |
| Filer's Name | Tal Grinblat, Esq. |
| Filer's e-mail | tgrinblat@lewitthackman.com |
| Signature | /tal grinblat/ |
| Date | 07/15/2010 |
| Attachments | Answer to Petition for Cancellation.pdf (6 pages)(305528 bytes) |

Registrant answers the numbered paragraphs of the Petition as follows:

1. Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 1 and therefore denies the same.

2. Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 2, and therefore denies the same.

3. Registrant admits that Petitioner has sold jewelry, apparel and related accessories incorporating the peace symbol and heart design, and the words “peace & love.” Petitioner’s particular use of the peace and love symbol and words “peace & love” infringe on Registrant’s exclusive rights in and to its “Peace & Love” family of marks, including the Registrations and the following registrations:

- Reg. No. 2,989,992 for “peace & love jewelry by nancy davis” and design of a heart with a superimposed peace symbol;
- Reg. No. 3,193,106 for “peace & love” and design of a heart with a superimposed peace symbol;
- Reg. No. 3,193,107 for a design of a heart with a superimposed peace symbol;

Registrant denies that use of the words “peace & love” and the design of a heart with a superimposed peace symbol has resulted in either the likelihood of dilution or actual dilution of its “Peace & Love” family of marks.

Registrant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 3, and therefore denies the same.

4. Registrant denies the specific allegations set forth in Paragraph 4. Registrant’s Registrations are intended to protect Registrant’s exclusive rights in and to the trademarks for which the Registrations were obtained, as well as to prevent others from using confusingly similar marks.

5. Registrant denies the allegations set forth in Paragraph 5.

6. Registrant denies the allegations set forth in Paragraph 6.

7. Registrant denies that its trademarks bearing the peace/love design and the words “peace & love” are generic. Registrant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 7 and therefore denies the same.

8. Registrant denies the allegations set forth in Paragraph 8.

9. Registrant denies the allegations set forth in Paragraph 9.

10. Registrant admits that the Registrations were granted for handbags, tote bags, purses and shoulder bags; and clothing, namely, t-shirts, shirts, sweatpants, jeans, pants, dresses, shorts, tops, bottoms, headwear, headwear accessories, namely, scarves, head banks, berets, hats; footwear, and belts. Registrant further admits that the trademark applications claimed a first use date of June 2003. Registrant denies the remaining allegations in Paragraph 10.

11. Registrant admits that it filed trademark applications on June 12, 2008 under section 1(b) of the Lanham Act and subsequently filed statements of use claiming a first use date of June 2003. Registrant denies the remaining allegations in Paragraph 11.

12. Registrant denies the allegations set forth in Paragraph 12.

13. Registrant admits it filed a lawsuit in federal district court in the case titled *Peace & Love Jewelry by Nancy Davis, LLC v. Kohl's Department Stores, Inc.*, U.S. Central District of California Case No. CV10-0417 GW, for trademark infringement and related causes of action concerning Petitioner's violations of the trademarks for which the Registrations were obtained, among others. Registrant denies the remaining allegations in Paragraph 13.

14. Registrant denies the allegations set forth in Paragraph 14.

Registrant further denies that Petitioner is entitled to the relief which it seeks. In all other respects, to the extent that any allegation in the Petition has not been specifically admitted herein, such allegation is hereby denied.

WHEREFORE, Registrant prays for relief as follows:

1. That the Petition be dismissed with prejudice;
2. That Registrant be awarded reasonable costs and attorneys' fees; and

3. That Registrant be awarded such other and further relief as the Trademark Trial and Appeal Board deems just and proper.

DATED: July 13, 2010

LEWITT, HACKMAN, SHAPIRO,
MARSHALL & HARLAN

By: 
TAL GRINBLAT
Attorneys for Peace & Love Jewelry by
Nancy Davis, LLC

Law Offices
LEWITT, HACKMAN, SHAPIRO,
MARSHALL & HARLAN
A LAW CORPORATION

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over 18 years of age and am not a party to the within action or proceeding. My business address is 16633 Ventura Boulevard, 11th Floor, Encino, California 91436-1865.

On July 15, 2010, I served the foregoing document(s) described as:

ANSWER TO PETITION FOR CANCELLATION

on the interested party(ies) in this action at the following address, fax number or email address:

**Matthew R. Orr, Esq.
Scott P. Shaw, Esq.
Vonn R. Christenson, Esq.
CALL & JENSEN
A Professional Corporation
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
(949)717-3000
Attorneys for: Kohl's Department Stores,
Inc.**

- (BY MAIL)** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and place the envelope for collection and mailing, following our ordinary business practices. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.
 - (BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
 - (BY FACSIMILE)** I faxed the documents to the persons at the fax numbers listed above. No error was reported by the fax machine that I used. A copy of the report confirming the fax transmission, which I printed out, is attached.
 - (BY EMAIL)** I caused the documents to be sent to the persons at the email addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
 - (PERSONAL SERVICE)** I personally delivered the documents to the person or at the person's office by leaving the documents in an envelope or package clearly labeled to identify the person being served with a receptionist or an individual in charge of the office.
- EXECUTED on July 15, 2010, at Encino, California.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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(FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Lisa Whiting
LISA WHITING

Law Offices
LEWITT, HACKMAN, SHAPIRO,
MARSHALL & HARLAN
A LAW CORPORATION