

ESTTA Tracking number: **ESTTA354212**

Filing date: **06/22/2010**

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	It Jeans, Inc.		
Entity	Corporation	Citizenship	California
Address	5251 S. Santa Fe Avenue Vernon, CA 90058 UNITED STATES		

Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1010 Lake Street, Suite 400 Oak Park, IL 60301 UNITED STATES doctet@merz-law.com Phone:(708) 383-8801		
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Registration Subject to Cancellation

Registration No	3245191	Registration date	05/22/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	Ittierre S.p.A. Zona Industriale I-86090 Pettoranello di Molise (Isernia) ITALY		

Goods/Services Subject to Cancellation

Class 035. All goods and services in the class are cancelled, namely: Retail store services, featuring perfumery and cosmetics, eyeglasses, jewelry, costume jewelry, watches and clocks, clothing, footwear, bags, wallets and other leather goods, textiles, fabrics, house linen
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Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3733839	Application Date	05/26/2009
Registration Date	01/05/2010	Foreign Priority Date	NONE
Word Mark	!IT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2006/02/21 First Use In Commerce: 2006/02/21 Jeans; Shorts; Skirts

U.S. Application No.	77900301	Application Date	12/23/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	!IT JEANS LOS ANGELES		
Design Mark			
Description of Mark	The mark consists of the stylized words "!IT JEANS" inside brackets, all above the stylized words "LOS ANGELES".		
Goods/Services	Class 025. First use: First Use: 2006/02/21 First Use In Commerce: 2006/02/21 jeans, shorts and skirts		

Attachments	77744595#TMSN.jpeg (1 page)(bytes) 77900301#TMSN.jpeg (1 page)(bytes) scan0036.pdf (7 pages)(174326 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	/Mary Catherine Merz/
Name	Mary Catherine Merz
Date	06/22/2010

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

In the Matter of U.S. Registration No. 3,245,191
For: +IT and Design in Color
Filed: March 31, 2006
Date of Registration: May 22, 2007

IT JEANS, INC.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	
ITTIERRE S.p.A.)	
)	
Respondent.)	

PETITION TO CANCEL

In the matter of U.S. Trademark Registration No. 3,245,191 ("Registration No. 3,245,191") for the mark +IT and Design in Color in International Class 35, filed in the name of Ittiere S.p.A. ("respondent"), which registered on May 22, 2007, under Section 66(a). It Jeans, Inc. ("It Jeans"), a California corporation with its principal place of business at 5251 S. Santa Fe Avenue, Vernon, California 90058, believes it is being damaged by the registration of the mark in Registration No. 3,245,191 and hereby petitions to cancel the same, in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, It Jeans alleges as follows:

1. Upon information and belief, respondent is a joint stock company organized under the laws of Italy, with its principal place of business at Zona Industriale, I-86090 Pettoranello di Molise (Isernia), Italy.

2. Upon information and belief, respondent owns Registration No. 3,245,191 for +IT and Design in Color ("respondent's mark") in connection with "retail store services, featuring perfumery and cosmetics, eyeglasses, jewelry, costume jewelry, watches and clocks, clothing, footwear, bags, wallets and other leather goods, textiles, fabrics, house linen," in International Class 35 ("respondent's services").

3. Upon information and belief, no party other than respondent has an ownership interest in Registration No. 3,245,191.

4. Upon information and belief, Registration No. 3,245,191 issued under Section 66(a), based on respondent's intent to use respondent's mark in commerce for respondent's services.

5. Upon information and belief, respondent has not used respondent's mark in commerce in connection with respondent's services.

6. Upon information and belief, respondent has not used respondent's mark in commerce in connection with any goods or services.

7. Upon information and belief, respondent no longer intends to use the mark in Registration No. 3,245,191.

8. Upon information and belief, respondent has abandoned the mark in Registration No. 3,245,191.

9. Prior to respondent's filing date for Registration No. 3,245,191, It Jeans adopted and has continuously used the trade name "IT JEANS" in connection with its business activities in the apparel industry.

10. It Jeans has invested substantial amounts of time, effort and money in promoting, protecting and policing its IT JEANS trade name throughout the United States and in other countries. As such, It Jeans has extensive, non-registered statutory and common law rights in and to its IT JEANS trade name, which It Jeans uses in connection with its business activities.

11. Prior to respondent's filing date for Registration No. 3,245,191, It Jeans adopted and has

continuously used the trademark !IT in commerce in connection with apparel.

12. It Jeans is the owner of U.S. Trademark Registration No. 3133409 for the mark !IT Stylized for "Clothing, namely jeans, pants, t-shirts, skirts, jackets," with a filing date of December 24, 2002, a first use in commerce date of February 21, 2006, and a registration date of August 22, 2006, all of which predate respondent's filing date for Registration No. 3,245,191.

13. The registrations identified in paragraph 12, above, is valid, subsisting, uncancelled and is evidence of It Jeans' exclusive right to use the mark !IT Stylized in connection with the goods specified in the registration.

14. It Jeans also owns U.S. Trademark Registration No. 3733839 for the mark !IT for "jeans; shorts; skirts," with a first use date of February 21, 2006.

15. It Jeans also owns U.S. Trademark Application Serial No. 77/900301 for the mark !IT JEANS LOS ANGELES and Design for "jeans, shorts and skirts," with a first use date of February 21, 2006.

16. Since at least as early as the respective dates of first use stated in the above-identified application and registrations, It Jeans has used its specified marks in

connection with the listed goods. Such use has not been abandoned, and the public has come to associate It Jeans' goods with the !IT and !IT JEANS trademarks and trade name.

17. It Jeans' goods have received substantial media coverage, with its !IT and !IT JEANS name and mark being featured in national publications such as *People* magazine, *The Oprah Magazine*, and *Seventeen* magazine. As a result of significant advertising, promotion, sales and media coverage, It Jeans' !IT branded apparel is well-known in the relevant market.

18. Respondent has no license, consent or permission from It Jeans to use or register respondent's mark.

19. As identified in Registration No. 3,245,191, respondent's services could include retail store services for jeans, shorts, skirts, pants, t-shirts, jackets and other clothing items that are identical or related to petitioner's goods.

20. Respondent's mark +IT and Design so resembles It Jeans' !IT trademarks and the It Jeans trade name, that respondent's mark is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, respondent's mark and use thereof

are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the services in Registration No. 3,245,191 originate with It Jeans or otherwise are authorized, licensed or sponsored by It Jeans.

21. By reason of all the foregoing, It Jeans will be damaged by the continued registration of respondent's mark for the services in Registration No. 3,245,191, because registration of that mark is in violation of It Jeans' trademark and trade name rights.

WHEREFORE, It Jeans prays that this action be sustained in favor of It Jeans and that Registration No. 3,245,191 be cancelled. The \$300 filing fee required by 37 C.F.R. §2.6(a)(17) is submitted herewith.

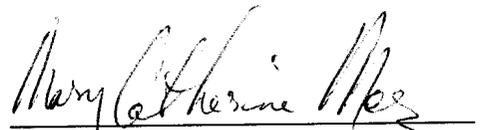
Respectfully submitted,

IT JEANS, INC.

Date:

June 22, 2010

By:



Mary Catherine Merz, Esq.

Bruce Haraguchi, Esq.

MERZ & ASSOCIATES, P.C.

Attorneys at Law

1010 Lake Street, Suite 400

Oak Park, Illinois 60301

(708) 383-8801 (phone)

(708) 383-8897 (fax)

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on respondent by First Class Mail this 22nd day of June, 2010, addressed to:

Ittiere S.p.A.
Zona Industriale
I-86090 Pettoranello di Molise (Isernia)
Italy

By: 
Mary Catherine Merz