

ESTTA Tracking number: **ESTTA354705**

Filing date: **06/24/2010**

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	ChinLan Chang		
Entity	Individual	Citizenship	UNITED STATES
Address	17071 Murphy Ave. Irvine, CA 92614 UNITED STATES		

Attorney information	John Fukasawa 215 E. Daily Dr. Camarillo, CA 93010 UNITED STATES jfukasawa@markfangapc.com, mfang@markfangapc.com Phone:(805) 383-2788		
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Registration Subject to Cancellation

Registration No	3530129	Registration date	11/11/2008
Registrant	IFILL, KERWIN 46 PIN OAK DRIVE NORTH BRUNSWICK, NJ 08902 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2005/01/01 First Use In Commerce: 2005/01/01 Cancelled goods and services in the class: On-line retail store services featuring footwear, clothing and accessories; Retail clothing boutiques; Retail clothing stores; Retail department stores; Retail shops featuring footwear, clothing and accessories; Retail sporting goods stores; Retail footwear, clothing and accessories
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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)
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Attachments	cancellation complaint.pdf (3 pages)(9125 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	/s/
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Name	John Fukasawa
Date	06/24/2010

BOX TTAB NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark registration no. 3530129 registered on November 11, 2008.

_____)	
CHIN-LAN CHANG, individual)	
)	
Petitioner,)	
)	
v.)	Cancellation No.: _____
)	Registration No. 3530129
IFIL, KERWIN, individual)	
)	
Registrant.)	
)	
_____)	

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

1. Petitioner, Chin-Lan Chang (“Chang”) hereby submits this petition to cancel Registration No. 3530129, “NAJA” for class 035.
2. The Registrant’s current owner is listed as Ifill, Kerwin, 46 Pin Oak Drive, North Brunswick, NJ 08902.
3. The Petitioner has been damaged by the Registrant’s mark.
4. The Petitioner has submitted a trademark application, serial number 77796511 for “NAJA GOLF,” which was denied registration because of an alleged conflict with the

Registrant's existing trademark. The grounds for this denial were that the Petitioner's proposed mark is likely to cause confusion with the Registrant's mark. Specifically, that the Petitioner's class 018 and 028 golf related goods were in conflict with the Registrant's class 035 "Retail sporting goods stores" listed in the description of goods in the trademark registration.

5. On information and belief, Petitioner avers that Registration No. 3530129 was obtained by fraud on the USPTO and that the Registrant made material representations of fact in its Statement of Use, specifically, that it had commenced use on all goods listed in the application when in fact had only some of the goods listed under its registered mark.

6. On information and belief, Petitioner avers that the Registrant does not and has never used class 035 "Retail sporting goods stores" in association with their trademark in commerce.

7. The Registrant's advertising materials and other evidence shows that their business was a women's shoe boutique and that they never sold "sporting goods."

8. The Registrant's website does not show or advertise any "sporting goods" related items.

9. The Registrant's own website, www.najafootwear.com, describes their store in the following manner and makes no mention of sporting goods, "Nāja Footwear is a privately owned retail shoe store located in New Brunswick, N.J. We specialize in providing quality footwear and personalized service to our customers."

10. The Registrant's blog also makes no mention of sporting goods, stating, "Najafootwear.com specializes in providing quality footwear along with stellar customer service. Our brands are carefully selected to offer our customers a great blend between

