

ESTTA Tracking number: **ESTTA369640**

Filing date: **09/22/2010**

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	Knock, inc.		
Entity	Corporation	Citizenship	Minnesota
Address	1315 Glenwood Avenue Minneapolis, MN 55405 UNITED STATES		

Attorney information	Daniel J. Kelly Winthrop & Weinstine, P.A. 225 South Sixth Street Capella Tower, Suite 3500 Minneapolis, MN 55402 UNITED STATES dkelly@winthrop.com, sarmstrong@winthrop.com, jrezac@winthrop.com, trademark@winthrop.com
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**Registration Subject to Cancellation**

Registration No	3804658	Registration date	06/15/2010
Registrant	Pointy Heads LLC 109 Federal Road #201 Danbury, CT 06811 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 009. First Use: 2009/11/09 First Use In Commerce: 2009/11/09 All goods and services in the class are cancelled, namely: computer application software for mobile phones
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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Related Proceedings	This Petition to Cancel is a combined Petition to Cancel with a Notice of Opposition against U.S. Serial Nos. 77/917,997 and 77/917,961. Petitioner is filing this combined pleading concurrently as a Notice of Opposition.
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	3023295	Application Date	06/23/2004
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	KNOCK		

Design Mark	<b>KNOCK</b>
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2001/12/01 First Use In Commerce: 2001/12/01  Advertising agency services: marketing services, namely business marketing consulting services, cooperative advertising and marketing, conducting marketing studies, direct marketing and advertising for others, and providing business marketing information</p> <p>Class 042. First use: First Use: 2004/04/15 First Use In Commerce: 2004/04/15  Graphic art design; computer services, namely, designing web sites for others</p>
Attachments	78439919#TMSN.jpeg ( 1 page )( bytes ) OpposeCancel.pdf ( 9 pages )(363234 bytes )

### **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	/sda/
Name	Sharon D. Armstrong
Date	09/22/2010

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

In the matter of Application Ser. Nos. 77/917,997 and 77/917,961 and Reg. No. 3,804,658  
Filed: January 22, 2010, January 22, 2010, and July 9, 2009, respectively  
For the marks: KNOCKCAST, KNOCK and KNOCKING  
Applications Published in the Trademark Official Gazette on May 25, 2010

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KNOCK, inc.,

Opposer/Petitioner,

Opposition No. \_\_\_\_\_

v.

Cancellation No. \_\_\_\_\_

Pointy Heads LLC,

Applicant/Respondent.

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**COMBINED NOTICE OF OPPOSITION AND PETITION TO CANCEL**

KNOCK, inc. ("Opposer/Petitioner"), believes that it will be damaged by registration of the marks shown in Application Serial Nos. 77/917,997 and 77/917,961 and hereby opposes same pursuant to Section 13 of the Lanham Act, 15 U.S.C. §1063 (2006). Opposer/Petitioner also believes that it is and will be damaged by U.S. Reg. No. 3,804,658 and hereby petitions to cancel the same pursuant to Section 14 of the Lanham Act, 15 U.S.C. §1064. Opposer/Petitioner files this Combined Notice of Opposition and Petition to Cancel pursuant to Trademark Trial and Appeal Board Manual of Procedure §305. The grounds for opposition and cancellation are as follows:

1. Pointy Heads LLC ("Applicant/Respondent"), a Connecticut limited liability company, having an address of 109 Federal Road #201, Danbury, Connecticut, 06811, seeks to register Application Serial Nos. 77/917,997 and 77/917,961 for KNOCKCAST and KNOCK, respectively, as service marks for "computer services, namely, providing online facilities for real-time interaction with other computer users concerning topics of general interest; providing

telecommunications connectivity services for the transfer of images, messages, audio, visual, audiovisual, and multimedia works” in International Class 38 and “on-line social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking” in International Class 45 (“Applications”) and is the record owner of U.S. Reg. No. 3,804,658 for “computer application software for mobile phones” in International Class 9 (“Registration”).

2. The Applications were published for opposition in the Trademark Official Gazette on May 25, 2010. On June 24, 2010, the Board granted Opposer’s request to extend the time to oppose the registration of Applicant/Respondent’s Applications until July 24, 2010. On July 23, 2010, the Board granted Opposer’s request to extend the time to oppose the registration of Applicant/Respondent’s Applications until September 22, 2010.

3. The Registration was issued on the Principal Register on June 15, 2010. Applicant/Respondent claimed a first use date at least as early as November 9, 2009. The filing date of the registration is July 9, 2009.

4. Opposer/Petitioner is a full-service firm offering advertising agency and marketing services, including design, branding, website development, computer application development, and social media services, among others. Opposer/Petitioner is the owner of a federal trademark registration for the mark KNOCK®.

5. Opposer/Petitioner is the record owner of U.S. Trademark Registration No. 3,023,295 for the service mark KNOCK® for use in connection with “Advertising agency services: marketing services, namely business marketing consulting services, cooperative advertising and marketing, conducting marketing studies, direct marketing and advertising for others, and providing business marketing information” in International Class 35, claiming a first

use date at least as early as December 1, 2001, and “Graphic art design; computer services, namely, designing web sites for others” in International Class 42, claiming a first use date at least as early as April 15, 2004. The registration was issued on the Principal Register on December 6, 2005.

6. A copy of Opposer/Petitioner’s registration is attached hereto as Exhibit A.

7. Opposer/Petitioner adopted and has continuously used its KNOCK® mark in connection with advertising agency, marketing and related services since at least as early as December 1, 2001 and with computer related services since at least as early as April 15, 2004.

8. In addition to its registered rights, Opposer/Petitioner has extensive and strong common law rights in its KNOCK mark and in the mark KNOCK, inc.

9. Opposer/Petitioner has maintained a website at the knockinc.com Internet domain since at least as early as 2004 and maintains a Facebook page at [www.facebook.com/KNOCKinc](http://www.facebook.com/KNOCKinc) under the user name KNOCK, inc.

10. Opposer/Petitioner expends considerable time, effort and expense in promoting, advertising and popularizing its distinctive KNOCK® and KNOCK, inc. marks and its services offered under these marks. Consumers have come to know, rely upon and recognize these marks as strong indicators of the source of Opposer/Petitioner’s services.

11. Opposer/Petitioner commenced use of its KNOCK® mark in commerce more than seven (7) years prior to the July 9, 2009 priority date of the Registration. Opposer/Petitioner has continuously used in commerce, from the dates set forth in its registration, its KNOCK® mark. Consequently, Opposer/Petitioner’s registration has priority over Applicant/Respondent’s Applications and Registration as a result of Opposer/Petitioner’s earlier continuous use of its federally registered KNOCK® mark.

12. Opposer/Petitioner has priority of common law rights in its KNOCK® and KNOCK, inc. marks in connection with advertising agency and marketing services, including design, branding, website development, computer application development, and social media services, among others.

13. Applicant/Respondent's KNOCK, KNOCKCAST and KNOCKING marks are highly similar to Opposer/Petitioner's KNOCK® mark, and each incorporates Opposer/Petitioner's KNOCK® mark in its entirety and begins with the identical word KNOCK.

14. The goods and services with which Applicant/Respondent seeks to use or is currently using its KNOCK, KNOCKCAST and KNOCKING marks are identical and/or closely related to Opposer/Petitioner's goods and services offered under its KNOCK® and KNOCK, inc. marks and are likely to travel in and be promoted through the same channels of trade as the goods and services offered under Opposer/Petitioner's KNOCK® and KNOCK, inc. marks.

15. Applicant/Respondent's KNOCK, KNOCKCAST and KNOCKING marks so resemble Opposer/Petitioner's KNOCK® and KNOCK, inc. marks as to be likely, when used on or in connection with the goods and services described in Paragraph 1, to cause confusion, mistake, or to deceive.

16. Because Applicant/Respondent's KNOCK, KNOCKCAST and KNOCKING marks and Opposer/Petitioner's KNOCK® and KNOCK, inc. marks are highly similar and because Applicant/Respondent's goods and services are closely related to the services with which Opposer/Petitioner's KNOCK® and KNOCK, inc. marks are used and registered, consumers are likely to believe mistakenly that the goods and services Applicant/Respondent offers or intends to offer under the KNOCK, KNOCKCAST and KNOCKING marks are sponsored, endorsed, or approved by Opposer/Petitioner, or are in some other way affiliated,

connected, or associated with Opposer/Petitioner, all to the detriment of Opposer/Petitioner. Registration of the marks shown in Applicant/Respondent's Applications should therefore be refused under 15 U.S.C. §§ 1052(d) and 1063 and U.S. Reg. No. 3,804,658 should therefore be canceled under 15 U.S.C. §§ 1052(d) and 1064.

17. Opposer/Petitioner has been damaged, in part, because Applicant/Respondent's Registration should not have been permitted registration under Section 2(d) of the Lanham Act, given Petitioner's prior rights in its KNOCK® and KNOCK, inc. marks.

18. Allowing registration of the marks displayed in the Applications would further damage Opposer/Petitioner, as registration would confer upon Applicant/Respondent various statutory presumptions to which it is not entitled in view of Opposer/Petitioner's prior use and registration of its KNOCK® and KNOCK, inc. marks.

**WHEREFORE**, Opposer/Petitioner respectfully requests that the Trademark Trial and Appeal Board sustain its opposition by refusing registration of Application Serial Nos. 77/917,997 and 77/917,961, sustain its petition to cancel by canceling U.S. Reg. No. 3,804,658, and grant to Opposer/Petitioner any other relief that may be just and equitable.

Dated: September 22, 2010

WINTHROP & WEINSTINE, P.A.



Stephen R. Baird  
Daniel J. Kelly  
Sharon D. Armstrong  
225 South Sixth Street  
Suite 3500  
Minneapolis, MN 55402  
(612) 604-6400 (Telephone)  
(612) 604-6800 (Facsimile)

Attorneys for Opposer/Petitioner  
KNOCK, inc.

Exhibit A

Int. Cls.: 35 and 42

Prior U.S. Cls.: 100, 101 and 102

**United States Patent and Trademark Office**

Reg. No. 3,023,295

Registered Dec. 6, 2005

**SERVICE MARK  
PRINCIPAL REGISTER**

**KNOCK**

KNOCK, INC (MINNESOTA CORPORATION)  
219 NORTH 2ND STREET #304  
MINNEAPOLIS, MN 55401

FOR: ADVERTISING AGENCY SERVICES: MARKETING SERVICES, NAMELY BUSINESS MARKETING CONSULTING SERVICES, COOPERATIVE ADVERTISING AND MARKETING, CONDUCTING MARKETING STUDIES, DIRECT MARKETING AND ADVERTISING FOR OTHERS, AND PROVIDING BUSINESS MARKETING INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-1-2001; IN COMMERCE 12-1-2001.

FOR: GRAPHIC ART DESIGN; COMPUTER SERVICES, NAMELY, DESIGNING WEB SITES FOR OTHERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-15-2004; IN COMMERCE 4-15-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-439,919, FILED 6-23-2004.

CAROLINE WOOD, EXAMINING ATTORNEY



