

ESTTA Tracking number: **ESTTA370804**

Filing date: **09/29/2010**

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	Indochino Apparel Inc.		
Entity	Corporation	Citizenship	Canada
Address	112-1118 Homer Street Vancouver, BC V6B 6L5 CANADA		

Attorney information	Sheila Fox Morrison Davis Wright Tremaine LLP 1300 SW Fifth Avenue, Suite 2300 Portland, OR 97201-5630 UNITED STATES sheilamorrison@dwt.com, pdxtrademarks@dwt.com, almurray@dwt.com Phone: 503-241-2300		
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Registration Subject to Cancellation

Registration No	3511639	Registration date	10/07/2008
Registrant	INDOCHINE CLOTHINGWORKS 7 PARK AVENUE # 166 NEW YORK, NY 10016 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/02/01 First Use In Commerce: 2008/02/01 All goods and services in the class are cancelled, namely: Clothing, namely, t-shirts, tops, and blouses
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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. Application No.	77922986	Application Date	01/28/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INDOCHINO		

Design Mark	<h1>INDOCHINO</h1>
Description of Mark	NONE
Goods/Services	<p>Class 025. First use: First Use: 2007/09/13 First Use In Commerce: 2007/09/13 (Based on Use in Commerce) (Based on 44(d) Priority Application) Clothing, namely, suits, tuxedos, shirts, coats, blazers, vests, pants, neck ties.; (Based on Intent to Use) (Based on 44(d) Priority Application) Clothing, namely, blue jeans</p> <p>Class 035. First use: First Use: 2007/09/13 First Use In Commerce: 2007/09/13 (Based on Use in Commerce) (Based on 44(d) Priority Application) Operation of an online retail store</p> <p>Class 040. First use: (Based on Intent to Use) (Based on 44(d) Priority Application) Clothing alteration and tailoring services; monogramming services</p>

Attachments	77922986#TMSN.jpeg (1 page)(bytes) INDOCHINE petition for cancellation.PDF (4 pages)(103491 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 Overnight Courier on this date.

Signature	/Sheila F. Morrison/
Name	Sheila Fox Morrison
Date	09/29/2010

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

In the matter of:

Trademark Registration No. 3511639
Mark: INDOCHINE
Date Registered: October 7, 2008

Indochino Apparel Inc., Petitioner, v. Indochine Clothingworks. Registrant.

Cancellation No.:

Attorney Docket No.: 91457-2

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELATION

INDOCHINO APPAREL INC., (“Petitioner”), a company organized under the laws of Canada with a place of business at 112-1118 Homer Street, Vancouver, British Columbia, Canada V6B 6L5, believes that it is being and will be damaged by:

Registration No. 3511639
Mark: INDOCHINE
Date Registered: October 7, 2008

owned by INDOCHINE CLOTHINGWORKS (hereinafter “Registrant”), and hereby petitions to cancel same.

As grounds for cancellation, it is alleged that:

1. Since September 13, 2007, Petitioner has and is now engaged in the business of providing goods and services related to the manufacturing and sale of clothing in the United States under the INDOCHINO name and trademark.

2. On information and belief, and according to Registrant's first use claim in its registration, Registrant first used its mark INDOCHINE on February 1, 2008.

3. Petitioner filed Application Serial No. 77/922986 in the United States Patent and Trademark Office on January 28, 2010, to register the mark INDOCHINO for:

Class 25: Clothing, namely, suits, tuxedos, shirts, coats, blazers, vests, pants, neck ties (*based on Section 1(a) and Section 44*); Clothing, namely, blue jeans (*based on Section 1(b) and Section 44.*);

Class 35: Operation of an online retail store (*based on Section 1(a) and Section 44*); and

Class 40: Clothing alteration and tailoring services; monogramming services (*based on Section 1(a) and Section 44*).

This application has been refused registration by the United States Patent and Trademark Office on the basis of the prior registration of Registrant's mark.

3. Petitioner has been damaged and will continue to be damaged by the continued registration of the mark INDOCHINE, Registration No. 3511639, because it is nearly identical to, and prevents Petitioner from registering, its INDOCHINO mark, which was used in commerce in the United States prior to Registrant's alleged first use date.

WHEREFORE, Petitioner respectfully requests that Registration No. 3511639 be cancelled.

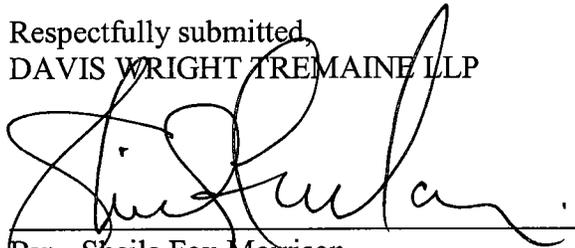
Please direct all communications to Sheila Fox Morrison, of Davis Wright Tremaine LLP
at the following address:

Sheila Fox Morrison, Esq.
Davis Wright Tremaine LLP
1300 SW Fifth Avenue
Portland, Oregon 97201-5630
pdxtrademarks@dwt.com
sheilamorrison@dwt.com
(503) 241-2300

The fee required under 37 C.F.R. § 2.6(a) has been charged to Davis Wright Tremaine's
Deposit Account.

DATED this 29 day of September, 2010

Respectfully submitted,
DAVIS WRIGHT TREMAINE LLP

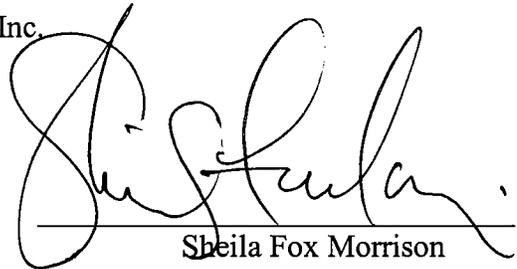
A handwritten signature in black ink, appearing to read 'Sheila Fox Morrison', written over a horizontal line.

By: Sheila Fox Morrison
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 29 day of September, 2010, a true and complete copy of the foregoing **PETITION FOR CANCELLATION** has been served upon Registrant by delivering the same via overnight mail to the following addresses:

Indochine Clothingworks, Inc.
7 Park Avenue # 166
New York, NY 10016



Sheila Fox Morrison