

ESTTA Tracking number: **ESTTA377908**

Filing date: **11/10/2010**

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	Louis Vuitton Malletier, S.A.		
Entity	Societe Anonyme	Citizenship	France
Address	2, rue de Pont-Neuf Paris, 75001 FRANCE		

Attorney information	Michael J. Allan Steptoe & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, DC 20036 UNITED STATES mallan@steptoe.com,rhofstatter@steptoe.com,jyolles@steptoe.com,ipdocketing@steptoe.com Phone:202-429-3000		
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Registration Subject to Cancellation

Registration No	3047958	Registration date	01/24/2006
Registrant	T&T HANDBAG CO. 4466 WORTH STREET LOS ANGELES, CA 90063 UNITED STATES		

Goods/Services Subject to Cancellation

Class 018. First Use: 1990/01/01 First Use In Commerce: 1990/01/01 All goods and services in the class are cancelled, namely: Leather and imitations of leather handbags, purses, garment bags for travel, wallets, and attache cases
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Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration	297594	Application Date	04/29/1931
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No.			
Registration Date	09/20/1932	Foreign Priority Date	NONE
Word Mark	LV		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U003 (International Class 018). First use: First Use: 1897/00/00 First Use In Commerce: 1897/00/00 TRUNKS, VALISES, TRAVELING BAGS, SACHELS, HAT BOXES AND SHOE BOXES USED FOR LUGGAGE, HAND BAGS, AND POCKETBOOKS		

U.S. Registration No.	1643625	Application Date	01/24/1990
Registration Date	05/07/1991	Foreign Priority Date	07/25/1989
Word Mark	LV		
Design Mark			
Description of Mark	THE MATERIAL IN DOTTED LINES IS USED TO SHOW POSITIONING OF THE MARK.		
Goods/Services	Class 018. First use: First Use: 1959/12/31 First Use In Commerce: 1959/12/31 leather and imitation leather products, namely traveling bags, hand bags, shoulder bags used for luggage and shopping bags and beach bags in the nature of luggage		

U.S. Registration No.	1653663	Application Date	03/22/1990
Registration Date	08/13/1991	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The flower design and the letters "LV" appear in the color yellow and the color yellow is claimed as a feature of the mark as is the dark brown which forms the ground on which the letters and flower design appear. The material in dotted lines is used to shown positioning of the mark and no claim is made to the exclusive right to the overall shape of the bag, the straps or the handle.
Goods/Services	Class 018. First use: First Use: 1959/12/31 First Use In Commerce: 1959/12/31 leather and imitation leather products namely traveling bags, hand bags, shoulder bags used for luggage and shopping bags and beach bags in the nature of luggage

U.S. Registration No.	1770131	Application Date	03/15/1991
Registration Date	05/11/1993	Foreign Priority Date	NONE

Word Mark	LV
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: clothing for men and women, namely, [belts,] shawls, sashes, scarves; [footwear, tips for footwear;] headgear

U.S. Registration No.	2773107	Application Date	01/31/2002
Registration Date	10/14/2003	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 014. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 Jewelry including ((rings,)) [belt buckles of precious metals,] ((earrings,)) cuff links, bracelets, ((charms,)) [brooches,] necklaces, [tie pins, ornamental pins,] and medallions; horological and chronometric instruments and apparatus, namely, watches, [watch cases and clocks; nutcrackers of precious metals; candlesticks of precious metals, jewelry boxes of precious metals]</p> <p>Class 018. First use: First Use: 1899/00/00 First Use In Commerce: 1899/00/00 Travel bags, travel bags made of leather; luggage trunks and valises, garment bags for travel, vanity-cases sold empty; rucksacks, shoulder bags, handbags; attache-cases, briefcases, drawstring pouches, pocket wallets, purses, umbrellas, business card cases made of leather or of imitation leather, credit card cases made of leather or of imitation leather; [calling card cases made of leather or of imitation leather;] * key holders made of leather or of imitation leather *</p> <p>Class 025. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Clothing, namely, ((underwear, sweaters, shirts, T-shirts, suits, hosiery,)) belts, scarves, neck ties, shawls, ((waistcoats, skirts,)) raincoats, overcoats, [suspenders,] ((trousers, jeans, pullovers, frocks,)) jackets, ((winter gloves,)) [dress gloves,] ((tights,)) [socks,] ((bathing suits,)) [bath robes, pajamas, night dresses,] ((shorts,)) [pocket squares;] high-heeled shoes, low-heeled shoes, sandals, boots, [slippers,] tennis shoes; ((hats)) [, caps, headbands]</p>
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U.S. Registration No.	2177828	Application Date	08/01/1996
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Registration Date	08/04/1998	Foreign Priority Date	02/23/1996
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Word Mark	NONE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 014. First use: goods made of precious metals, namely, shoe ornaments, [hat ornaments] , ornamental pins , [ashtrays for smokers, decorative boxes, powder compacts of precious metal, jewelry cases] ; jewelry, namely, rings, [key rings] , [belt buckles,] ear rings, cufflinks, bracelets, charms , [brooches] , necklaces , [tie pins, medallions] ; horological [and chronometric] instruments, straps for watches, watches and wrist-watches, cases for watches</p> <p>Class 018. First use: goods made of leather or imitations of leather are not included in other classes, namely, boxes made from leather [or leatherboard, envelopes of leather for packaging] ; trunks, valises, traveling bags, luggage for travel, garment bags for travel, vanity cases sold empty, rucksacks, hand bags, beach bags, shopping bags, shoulder bags, attache cases, briefcases, [draw string pouches] , and fine leather goods, namely, pocket wallets, purses, leather key holders, business card cases, calling card cases, and credit card cases, umbrellas, [parasols, canes, and walking-stick seats]</p> <p>Class 025. First use: clothing and underwear, namely, [sweaters,] ((shirts)) , [corsets], [suits,] ((waistcoats, raincoats, skirts, coats, pullovers, trousers, dresses, jackets,)) shawls, stoles, [sashes for wear,] ((scarves, neckties, pocket squares,)) [suspenders] , [gloves,] belts, [stockings, tights], [socks, bath robes,] shoes, boots and sandals, [hats and caps]</p>
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U.S. Registration No.	2181753	Application Date	08/01/1996
Registration Date	08/18/1998	Foreign Priority Date	02/23/1996
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 014. First use: [goods made of precious metals, namely, shoe ornaments,] [hat ornaments,] [ornamental pins,] [ashtrays for smokers, decorative boxes, powder compacts of precious metal, jewelry cases;] jewelry, namely, rings, [key rings,] [belt buckles,] ear rings, [cufflinks,] bracelets, charms, [brooches,] necklaces, [tie pins, medallions;] horological [and chronometric] instruments, straps for watches, watches and wrist-watches, cases for watches</p> <p>Class 018. First use: goods made of leather or imitations of leather are not included in other classes, namely, boxes made from leather; [or leatherboard, envelopes of leather for packaging;] trunks, valises, traveling bags, luggage for travel, garment bags for travel, vanity cases sold empty, rucksacks, hand bags, beach bags, shopping bags, shoulder bags, attache cases, briefcases, [draw string pouches;] and fine</p>		

	<p>leather goods, namely, pocket wallets, purses, leather key holders, business card cases, calling card cases, credit card cases, and umbrellas [, parasols, canes, and walking-stick seats]</p> <p>Class 025. First use:</p> <p>clothing and underwear, namely, [sweaters,] shirts, [corsets,] [suits,] waistcoats, raincoats, skirts, coats, pullovers, trousers, dresses, jackets, shawls, stoles, [sashes for wear,] scarves, neckties, pocket squares, [suspenders,] [gloves,] belts, [stockings, tights,] [socks, bath robes,] shoes, boots and sandals, [hats and caps]</p>
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Attachments	<p>71313983#TMSN.gif (1 page)(bytes)</p> <p>74022168#TMSN.gif (1 page)(bytes)</p> <p>74042919#TMSN.gif (1 page)(bytes)</p> <p>74148017#TMSN.gif (1 page)(bytes)</p> <p>76364597#TMSN.gif (1 page)(bytes)</p> <p>75143799#TMSN.gif (1 page)(bytes)</p> <p>75143789#TMSN.gif (1 page)(bytes)</p> <p>Petition for Cancellation of Registration 3047958.pdf (13 pages)(466013 bytes)</p>
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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	/Michael J. Allan/
Name	Michael J. Allan
Date	11/10/2010

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

In the Matter of Registration No. 3,047,958
Date of Issue: January 24, 2006

LOUIS VUITTON MALLETIER, S.A.

Petitioner,

v.

T&T HANDBAG CO,

Registrant.

Cancellation No. _____

Honorable Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

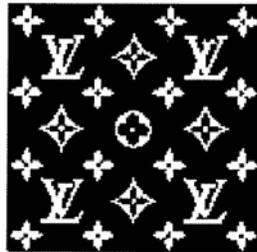
Louis Vuitton Malletier, S. A. (“Louis Vuitton” or “Petitioner”), a Societe Anonyme, organized and existing under the laws of France, with a place of business located at 2, rue du Pont-Neuf, Paris, France, believes that it is being and will continue to be damaged by the registration of the design designation shown in Registration. No. 3,047,958, dated January 24, 2006, in the name of T&T Handbag Co. (“T&T” or “Registrant”), and hereby petitions to cancel the same.

I. LOUIS VUITTON AND ITS TOILE MONOGRAM MARK

1. Louis Vuitton, founded by its namesake in 1854 in France, is now, and has long been, one of the premier luxury good companies in the world. Originally the creator of custom-

made luggage and trunks, today Louis Vuitton is engaged in the business of designing, manufacturing and marketing a variety of luxury products and is well-known for its high-quality handbags, purses, garment bags for travel, wallets, attaché cases and many other luxury goods.

2. Louis Vuitton's signature trademark, the highly distinctive and famous Toile Monogram Mark, shown below, dates from the 1890's. This trademark comprises a repeating diagonal pattern of initials and geometrical shapes in repeated fashion, at regularly spaced intervals, covering the entire surface of the products on which the mark is used. Registered in 1932 on the Principal Register of the United States Patent and Trademark Office, this trademark is famous and incontestable.



3. The Toile Monogram Mark was created by Georges Vuitton, the son of Louis Vuitton, in part to distinguish Petitioner's goods from those of other manufacturers and to protect against imitators who would attempt to trade on Louis Vuitton's goodwill by selling knock-offs (infringements) and counterfeits.

4. The Toile Monogram Mark was first used in the United States over a hundred years ago for Petitioner's luxury goods and, since its initial use, this mark has been used for a wide variety of luxury goods, including handbags, purses, garment bags for travel, wallets and attaché cases. The Toile Monogram Mark is now, and ever since its first use, has been conspicuously applied to the luxury goods of Louis Vuitton. Such goods so marked have been widely and extensively sold and distributed in the United States since long prior to the

application to register the subject design mark of T&T or any date of first use that could be claimed by T&T for that design.

5. The classic use of the Toile Monogram Mark is yellow on a chestnut-brown background as appears on the handbag, wallet and luggage products shown below:



6. In 2002, Louis Vuitton designer Marc Jacobs and Japanese artist Takashi Murakami collaborated in creating new versions of the Toile Monogram Mark by combining the various design elements in 33 distinctive Murakami colors for a variety of luxury goods (“Monogram Multicolore Marks”). The Monogram Multicolore Marks were an instant success and have become famous. Images of products featuring the Multicolore Marks appear below:



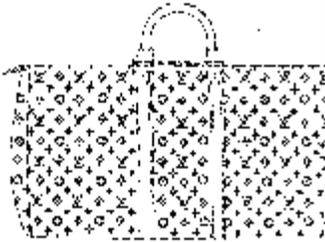
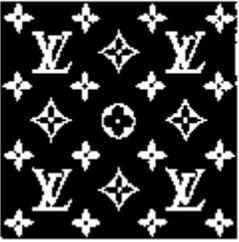
7. The Toile Monogram Mark has been widely and extensively advertised and promoted in connection with Louis Vuitton and its luxury goods. Louis Vuitton has invested tens of millions of dollars and decades of time and effort to create consumer recognition of the Toile Monogram Mark to ensure that the public, not only in the United States but throughout the world, associates the Toile Monogram Mark, and its constituent marks, with high quality, luxury goods emanating exclusively from Louis Vuitton.

8. By virtue of the long, continued and widespread sale of said goods so marked, advertised and promoted and the high quality of said goods, the Toile Monogram Mark has become, since long prior to the application to register the subject design mark of T&T or any date of first use that could be claimed by T&T for that design, extremely well known and recognized as a trademark and as a signature symbol of corporate identification that distinguishes Louis Vuitton and its products from the business and products of others.

9. Since long prior to the application to register the subject design mark of T&T or any date of first use that could be claimed by T&T for that design, the Toile Monogram Mark has become, and is now, a famous and distinctive mark which represents a large and extremely valuable goodwill belonging exclusively to Louis Vuitton. The Second Circuit has explicitly recognized the fame of the Toile Monogram Mark, stating: “[it] . . . has been a famous indicator of Louis Vuitton for over a century.” *Louis Vuitton Malletier v. Dooney & Bourke Inc.*, 454 F.3d 108, 116 (2d Cir. 2006).

10. Louis Vuitton owns numerous valid and subsisting U.S. trademark registrations for the Toile Monogram Mark for handbags, purses, garment bags for travel, wallets, attaché cases and many other products, including the following listed below. In addition, the individual components

of the Toile Monogram Mark are also separately registered. *See* Registration Nos. 2,773,107, 2,177,828, and 2,181,753.

	<p>297,594 issued 9/20/1932</p>	<p>18 -- Trunks, valises, traveling bags, satchels, hat boxes and shoe boxes used for luggage, hand bags, and pocketbooks.</p>
	<p>1,643,625 issued 5/7/1991</p>	<p>18 -- Leather and imitation leather products, namely traveling bags, hand bags, shoulder bags used for luggage and shopping bags and beach bags in the nature of luggage.</p>
	<p>1,653,663 issued 8/13/1991</p>	<p>18 -- Leather and imitation leather products namely traveling bags, hand bags, shoulder bags used for luggage and shopping bags and beach bags in the nature of luggage.</p>
	<p>1,770,131 issued 5/11/1993</p>	<p>25 -- Clothing for men and women, namely, shawls, sashes, scarves; headgear.</p>

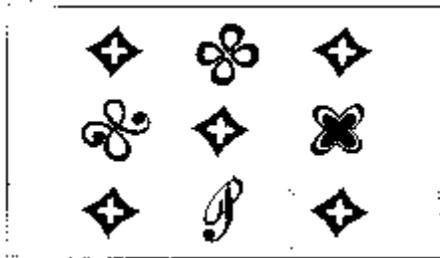
II. T&T's INFRINGING REGISTRATION AND ACTIVITIES

11. As set forth below, T&T has targeted the goodwill and fame of Louis Vuitton and its marks and is infringing not only Louis Vuitton's famous Toile Monogram Mark, but also the

trade dress of Louis Vuitton’s products, including their shape, styles, color combinations and other design elements. Through these actions, T&T has engineered a widespread theft of Louis Vuitton’s intellectual property and goodwill.

12. The T&T registration that Louis Vuitton seeks to cancel here is merely part of its overall scheme to trade on and misappropriate the intellectual property of famous luxury brands. For example, T&T, and/or its affiliates, manufactures and sells counterfeits of some of the most famous luxury brands worldwide. Thus, the registration at issue is merely part of T&T’s global counterfeiting and infringing operation.

13. The subject registration, Reg. No. 3,047,958, is for the following design:



(the “T&T Monogram Design”) in Int. Class 18 for “leather and imitations of leather handbags, purses, garment bags for travel, wallets, and attaché cases.”

14. Registrant’s goods described in the T&T Monogram Design registration are the same kinds of handbags, purses, garment bags for travel, wallets, and attaché cases as those sold by Petitioner under its Toile Monogram Mark and individual geometric designs and as described in their registrations.

15. Registrant, its affiliates, and those individuals working at its direction or under its control or in concert with Registrant, are engaged in the business of intentional and purposeful

misappropriation and infringement of the enormous goodwill of Louis Vuitton represented by its Toile Monogram Mark.

16. Registrant's bad faith in the design and use of its T&T Monogram Design appears from the T&T Monogram Design itself and is shown by the manner of its use of that design. Like Louis Vuitton's use of the Toile Monogram Mark, Registrant uses the T&T Monogram Design on products in a diagonal pattern of interlocking initials and geometrical shapes in repeated fashion, at regularly spaced intervals, covering the entire surface of the products on which the T&T Monogram Design is used. In addition, Registrant copies the distinctive coloration and trade dress of yellow on chestnut brown background color famously used by Louis Vuitton for its classic Toile Monogram trade dress.

17. T&T's bad faith and intentional infringement of the Toile Monogram Mark is further evidenced by T&T's blatant copies of numerous other Louis Vuitton proprietary design elements including by way of example, the design of Louis Vuitton bags that bear the Toile Monogram Mark as well as other design elements superimposed over the Toile Monogram Mark.

18. Set forth below are images of authentic Louis Vuitton "Alma", "Bucket" "Ellipse" and "Pochette Porte Monnaie" designs, with corresponding T&T infringing products:

Louis Vuitton



T&T



19. Registrant's intentional imitation of the Toile Monogram Mark and the products bearing that mark also has included and includes copying the colors and color combinations of the Multicolore Monogram Marks and the trade dress of products bearing that mark. Images of T&T's knock-off Multicolore products appear below:



20. In addition, T&T has copied specific and selected Louis Vuitton designs featuring, for example, images of cherry blossom flowers that are superimposed over the famous Toile Monogram Mark. Images of authentic Louis Vuitton merchandise featuring the cherry blossom flowers, as well as knock-off T&T products appear below:

Louis Vuitton



T&T



III. THE INFRINGING REGISTRATION SHOULD BE CANCELLED

21. The T&T Monogram Design so resembles the Toile Monogram Mark previously used and registered in the United States and not abandoned, as to be likely, when applied to the goods described in Registrant’s registration, to cause confusion, to cause mistake or to deceive with consequent injury to Louis Vuitton and to the public, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

22. The T&T Monogram Design is being used by Registrant without the permission of Louis Vuitton so as to misrepresent the source of the goods on and in connection with which the T&T Monogram Design is used in violation of Section 14(3) of the Trademark Act, 15 U.S.C. § 1064(3).

23. The T&T Monogram Design consists of and comprises deceptive matter and matter which falsely suggests a connection with Louis Vuitton in violation of Section 2(a) of the Trademark Act, 15 U.S.C. § 1052(a).

24. Use by Registrant of the T&T Monogram Design is likely to dilute the distinctive quality of Petitioner's famous, distinctive and registered Toile Monogram Mark in violation of Sections 43(c) and 14(1) of the Trademark Act, 15 U.S.C. §§ 1125(c) and 1064(1).

25. Petitioner will be damaged by the continued presence of Registrant's T&T Toile Monogram registration on the Principal Register because such continued registration will support and assist Registrant in the confusing, misleading, deceptive and diluting use of the design that is the subject of the registration, and will give color of exclusive statutory rights in Registrant in violation and derogation of the prior and superior rights of Petitioner.

WHEREFORE, Louis Vuitton believes that it is being and will continue to be damaged by the continued presence on the Principal Register of said Reg. No. 3,047,958, and prays that it be canceled.

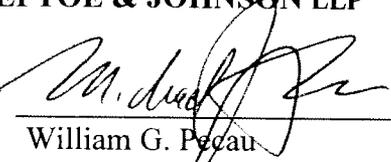
Please recognize as attorneys for Petitioner in this proceeding, William G. Pecau (a member of the bars of the states of New York and California and of the District of Columbia), Michael J. Allan (a member of the bars of the state of New York and of the District of Columbia), and Rachel M. Hofstatter (a member of the bars of the state of Maryland and of the District of Columbia) whose address is

Step toe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036. Please address all communications to Michael J. Allan, Esq. at the above address.

Dated: November 10, 2010

Respectfully submitted,

STEPTOE & JOHNSON LLP

By: 

William G. Pecau

Michael J. Allan

Rachel M. Hofstatter

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Attorneys for Petitioner

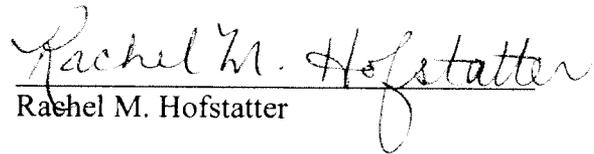
Louis Vuitton Malletier, S.A.

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused this PETITION FOR CANCELLATION to be served by postage prepaid, first class mail, on the registrant of record as follows:

T&T HANDBAG CO.
4466 WORTH STREET
LOS ANGELES, CA 90063

Dated: November 10, 2010


Rachel M. Hofstatter