

ESTTA Tracking number: **ESTTA386150**

Filing date: **12/30/2010**

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	Blitz-Corporation Limited		
Entity	Corporation	Citizenship	United Kingdom
Address	Firepower, Unit 10, The 10 Centre, Duke of Wellington Avenue, Royal Arsenal London, SE18 6SR UNITED KINGDOM		

Attorney information	Gary J. Nelson Christie, Parker & Hale, LLP P.O. Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com Phone:(626)795-9900
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Registration Subject to Cancellation

Registration No	3198216	Registration date	01/16/2007
Registrant	Scialdone, Mark 5176 Remington Road San Diego, CA 92115 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2005/06/11 First Use In Commerce: 2005/06/11 All goods and services in the class are cancelled, namely: Clothing for men, women and children, namely, warm up suits, jogging suits, sweat suits, sweat pants and sweat shirts, leg warmers, wet suits, ski suits, ski pants, ski bibs, ski jackets, swim wear, bathing suits, beach and bathing cover ups, suits, slacks, trousers, pants, jeans, shorts, sweat shorts, gym shorts, tops, jackets, coats, sport coats, shirts, sport shirts, T-shirts, knit shirts, polo shirts, pullovers, sweaters, vests, tank tops, blazers, jump suits, play suits, overcoats, parkas, wind resistant jackets, leather jackets, footwear, shoes, boots, slippers, athletic footwear, basketball shoes, casual footwear, sandals, head wear, hats, caps, visors, hoods, berets, headbands, sweat bands, wristbands, neckwear, neckties, neckerchiefs, scarves, BANDANAS, sleep wear, robes, pajamas, nightshirts, gowns; children's sleep wear and lounge wear consisting of long and short two-piece sets; cloth bibs; rain wear, gloves, mittens, lounge wear, underwear, briefs, underpants, boxer shorts, undershirts, suspenders, hosiery, socks, belts

Grounds for Cancellation

Abandonment	Trademark Act section 14
Other	False Declaration, Improper Basis

Attachments	S307 110 2 19 Petition to Partially Cancel.pdf (6 pages)(72748 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	/Gary J. Nelson/
Name	Gary J. Nelson
Date	12/30/2010

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

Blitz-Corporation Limited

Petitioner,

v.

Mark Scialdone

Respondent.

PETITION TO PARTIALLY CANCEL
TRADEMARK REGISTRATION

Mark: BAD BREED

Reg. No. 3,198,216

Issue Date: January 16, 2007

Petitioner Blitz-Corporation Ltd. ("Blitz Corp." or "Petitioner"), an United Kingdom Limited Liability Company, having a place of business at The IO Centre, Unit 10, Duke of Wellington Avenue, Royal Arsenal, London SE18 6SR, United Kingdom, believes that it is being damaged by, and will continue to be damaged by, the registration of the mark BAD BREED (Registration No. 3,198,216) and hereby petitions to partially cancel the registration of this mark.

The grounds for the petition for cancellation are as follows:

1. Petitioner is seeking to register the mark BADBREED for footwear, headgear and martial arts clothing in International Class 025, among other goods in other International Classes.
2. In pursuit of this goal, Petitioner filed an United States trademark application for the mark BADBREED on or about August 27, 2009 (App. Ser. No. 79/078,504).
3. Respondent Mark Scialdone ("Scialdone" or "Respondent") is listed as the owner of United States Trademark Registration No. 3,198216 for the mark BAD BREED for clothing for men, women and children in International Class 025, among other things in other International Classes ("the '216 Registration"). Respondent is identified as an individual residing at 5176 Remington Road, San Diego, California 92115.
4. Petitioner's pending trademark application for BADBREED has been refused registration based on the existence of the '216 Registration. Petitioner is therefore being harmed by the continued existence of the '216 Registration in its current form.

ABANDONMENT (15 U.S.C. § 1064)

5. Based on an investigation into the Respondent's use of BAD BREED for goods in International Class 025, Petitioner is informed and believes that Respondent has discontinued use of BAD BREED as a trademark for all International Class 025 goods in the ordinary course of trade.

6. Petitioner is informed and believes Respondent has discontinued use of BAD BREED as a trademark for all International Class 025 goods with the intent not to resume use in the ordinary course of trade.

7. Petitioner is informed and believes Respondent has not used BAD BREED as a trademark for all International Class 025 goods in the ordinary course of trade for a period that exceeds a minimum of three consecutive years. Accordingly, Respondent has abandoned all rights it may have once had in its BAD BREED trademark for all International Class 025 goods.

FALSE DECLARATION (15 U.S.C. § 1068; 37 CFR § 2.20)

8. Based on an investigation into the Respondent's use of BAD BREED for goods in International Class 025, Petitioner is informed and believes that at the time Respondent filed its Section 1A Use Based Trademark Application, that eventually matured into the '216 Registration, Respondent was not using the subject mark of the '216 Registration on all the goods listed in the '216 Registration. When Respondent signed its Declaration, Respondent knew this statement was false. Furthermore, Respondent signed a Declaration acknowledging that "...willful false statements, and the like, may jeopardize the validity of...any resulting registration...."

9. Accordingly, the United States Trademark Trial and Appeal Board ("TTAB"), pursuant to 15 U.S.C. § 1068 and 37 CFR § 2.20, has the authority to delete the goods listed in the '216 Registration that were not in use on the date the corresponding application was filed (i.e., July 18, 2005). In this case, all International Class 025 goods should be deleted. Deletion

of all International Class 025 goods from the '216 Registration, or other appropriate restriction, would eliminate the '216 Registration as an obstacle to the registration of Opposer's own BADBREED trademark.

IMPROPER BASIS (15 U.S.C. § 1068; 37 CFR § 2.34)

10. Based on an investigation into the Respondent's use of BAD BREED for goods in International Class 025, Petitioner is informed and believes that at the time Respondent filed the Section 1A Use Based Trademark Application, that eventually matured into the '216 Registration, Respondent was not using the subject mark of the '216 Registration on all of the International Class 025 goods listed in the '216 Registration. With full knowledge of this fact, Respondent nevertheless based the application on 15 U.S.C. § 1(a), which requires use of the subject mark on all the goods listed in the application on the date the application was filed.

11. Accordingly, the United States Trademark Trial and Appeal Board ("TTAB"), pursuant to 15 U.S.C. § 1068 and 37 CFR § 2.20, has the authority to delete the goods listed in the '216 Registration that were not in use on the date the corresponding application was filed (i.e., July 18, 2005). In this case, all International Class 025 goods should be deleted. Deletion of all International Class 025 goods from the '216 Registration, or other appropriate restriction, would eliminate the '216 Registration as an obstacle to the registration of Opposer's own BADBREED trademark.

12. Continued registration of the subject trademark of the '216 Registration is causing injury to Petitioner's business plans, impairing Petitioner's rights in its BADBREED trademark, and may prevent Petitioner from obtaining a federal trademark registration for its BADBREED trademark for International Class 025 goods.

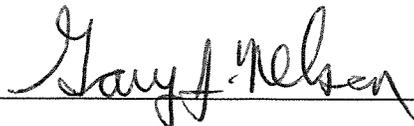
13. Continued registration of Respondent's BAD BREED trademark will continue to cause injury to Petitioner unless, and until, the '216 Registration is canceled as requested.

WHEREFORE, Petitioner believes that it is being damaged, and/or will continue to be damaged by Registration No. 3,198,216 and requests this petition be sustained in favor of Petitioner, and that Registration No. 3,198,216 be canceled as to all International Class 025 goods.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date December 30, 2010

By 

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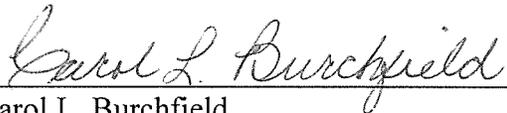
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CERTIFICATE OF MAILING AND SERVICE

It is further certified that on December 30, 2010, the foregoing **PETITION TO PARTIALLY CANCEL TRADEMARK REGISTRATION** is being served by mailing a copy thereof by first-class mail addressed to:

Donna K. Harms
American Patent & Trademark Law Center
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By 
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