

ESTTA Tracking number: **ESTTA414808**

Filing date: **06/16/2011**

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	Jacques Moret, Inc.		
Entity	Corporation	Citizenship	New York
Address	1411 Broadway New York, NY 10018 UNITED STATES		

Correspondence information	Howard F Mandelbaum Attorney Levine & Mandelbaum 222 Bloomingdale Road Suite 203 White Plains, NY 10605 UNITED STATES mail@levman.com Phone:(914) 421-0500		
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Registration Subject to Cancellation

Registration No	3513161	Registration date	10/07/2008
Registrant	Speedo Holdings B.V. Claude Debussylaan 24 1082 MD Amsterdam, NETHERLANDS		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/03/31 First Use In Commerce: 2008/03/31 All goods and services in the class are cancelled, namely: Clothing, namely, shirts, blouses, singlets, bathing caps, vests, skirts, dresses, tracksuits, sweaters, wetsuits for water skiing, underwear, t-shirts, running shorts, water shorts, crop tops, bra tops, unitards, leotards, biking shorts, athletic shorts, leggings, warm-up jackets, warm-up pants, sweatshirts, sweatpants; footwear; headgear, namely, hats and caps; swimwear

Grounds for Cancellation

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)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2414630	Application Date	02/22/1999
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Registration Date	12/19/2000	Foreign Priority Date	NONE
Word Mark	SPEED DRI		
Design Mark	SPEED DRI		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00 Wearing Apparel, Namely Leotards, Leggings, Tops and Tights		

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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	/Howard F. Mandelbaum/
Name	Howard F Mandelbaum
Date	06/16/2011

3. Plaintiff is the owner of U.S. Trademark Registration No. 2,414,630 for the trademark SPEED DRI for use on leggings and tops which it has produced and marketed for approximately 12 years and currently produces and markets.

4. On November 11, 2010, Plaintiff filed U.S. Trademark Application Serial No. 85/174,754 in the Patent and Trademark Office based on intent to use the mark SPEED DRI on "wearing apparel, namely, leotards and tights".

5. On December 27, 2010 the Examiner refused registration of SPEED DRI in Plaintiff's Application Serial No. 85/174,754 due to likelihood of confusion with the mark SPEEDRY in Defendant's Reg. No. 3,513,161.

6. The marks SPEED DRI and SPEEDRY are similar in appearance and spelling.

7. The marks SPEED DRI and SPEEDRY are identical in pronunciation.

8. Defendant's Reg. No. 3,513,161 for the mark SPEEDRY covers

Clothing, namely, shirts, blouses, singlets, bathing caps, vests, skirts, dresses, tracksuits, sweaters, wetsuits for water skiing, underwear, t-shirts, running shorts, water shorts, crop tops, bra tops, unitards, leotards, biking shorts, athletic shorts, leggings, warm-up jackets, warm-up pants, sweatshirts, sweatpants; footwear; headgear, namely, hats and caps; swimwear.

9. Both Plaintiff's Registration No. 2,414,630 and Defendant's later issued Registration No. 3,513,161 recite "leggings" in their respective identifications of goods.

10. "Tops" recited in the identification of goods in Plaintiff's Registration No. 2,414,630 encompasses "crop tops" and "bra tops" recited in the identification of goods in Defendant's later issued Registration No. 3,513,161.

11. Upon information and belief, Defendant's clothing is so closely related to Plaintiff's wearing apparel, that use of similar marks on the respective goods of the parties is likely to cause confusion or mistake, or to deceive purchasers as to the origin or sponsorship of the goods.

12. Plaintiff is damaged by the continued existence of the Defendant's registration, since that registration constitutes an impediment to registration of Plaintiff's trademark SPEED DRI.

13. Upon information and belief, the registration by Defendant of SPEEDRY for goods identical and closely related to Plaintiff's goods will impair Plaintiff's free use and registration of its trademark, and has resulted and will continue to result in injury to the good will Plaintiff has acquired with respect to its trademark, and its ability to register and protect its trademark, all to Plaintiff's damage.

WHEREFORE, Plaintiff prays that this petition be sustained and that Registration No. 3,513,161 be cancelled.