

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

<p><i>In re Registration No. 3,811,758 of Children's Apparel Network, Ltd. for the trademark BABY REBELS in Class 25</i></p> <p>EYAL BALLE,  Petitioner,  vs.  CHILDREN'S APPAREL NETWORK, LTD.,  Registrant.</p>	<p>Cancellation No. _____</p> <p>PETITION FOR CANCELLATION</p> <p>77/674,890</p>
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Commissioner for Trademarks  
ATTN: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

06/22/2011 SWILSON1 00000002 131241 3811758  
01 FC:6401 300.00 DA

Dear Commissioner:

Petitioner Eyal Balle, an individual having an address at 14918 S. Figueroa Street, Gardena, California 90248, believes that it will be damaged by U.S. Reg. No. 3,811,758, and hereby petitions to cancel such registration on the following grounds:

1. On June 5, 2009, Children's Apparel Network, Ltd. ("Registrant") applied to register the mark BABY REBELS for "clothing and accessories for infants, namely, caps, cardigans, creepers, denim jackets, hats, jackets, jeans, jerseys, overalls, pants, pullovers, shirts, shortalls, shorts, socks, sweatpants, sweatpants, sweat shirts, sweaters, t-shirts, tank-tops, vests; jacket sets comprised of jackets, pants and shirts; overall sets comprised of overalls and shirts; shirt sets comprised shirts and pants; sweater sets comprised of sweaters, pants and shirts" in Class 25. This application was



06-20-2011

assigned Serial No. 77/674,890.

2. On June 29, 2010, Registrant was issued a registration for BABY REBELS (the "Registration"). In the Registration, the dates of first use are as follows: Registrant claims to have first used its BABY REBELS mark anywhere at least as early as May 2009 and in commerce at least as early as May 2009. The Registration was assigned Registration No. 3,811,758.

3. Petitioner owns common law rights to the REBELS mark for use with footwear. Such rights date back to 1993. Specifically, Petitioner first used its REBELS mark anywhere at least as early as September 15, 1993, and in commerce at least as early as October 1, 1993. Petitioner has been using its REBELS mark continuously since September 15, 1993.

4. On July 16, 2009, Petitioner filed an application to register REBELS for "footwear" in Class 25 (the "Application"). That Application was assigned Serial No. 77/783,154. A true and correct printout from the PTO website showing Petitioner's pending Application for REBELS is attached hereto as **Exhibit 1**.

5. Petitioner filed his Application under Section 1(a) of the Lanham Act claiming first use of his REBELS mark anywhere at least as early as September 15, 1993, and in commerce at least as early as October 1, 1993.

6. On December 15, 2010, the Office issued an Office Action rejecting Petitioner's Application for REBELS based on Registrant's Registration. Petitioner has priority over Registrant by more than fifteen-and-one-half years.

7. Registrant's BABY REBELS mark is similar in sound, appearance and meaning and is confusingly similar to Petitioner's REBELS mark. The goods in Registrant's registration are also related to the goods in Petitioner's Application. The continued registration of Registrant's BABY REBELS mark is likely to cause confusion, mistake or

deception as to the source or origin or association of Petitioner's goods offered under the REBELS mark.

8. Petitioner is and will continue to be damaged by the continued registration of the mark shown in the Registration in that such Registration gives Registrant a *prima facie* exclusive right to use the BABY REBELS mark, despite the likelihood of confusion, mistake or deception, and false association between Petitioner's and Registrant's marks, and allows Registrant to trade on Petitioner's existing goodwill in the REBELS mark. The Registration is also barring the registration of Petitioner's mark.

9. A duplicate copy of this petition is enclosed. **Please charge the required fee for this petition to Deposit Account No. 131241.**

WHEREFORE, Petitioner prays that U.S. Reg. No. 3,811,758, issued on June 29, 2010, be canceled.

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

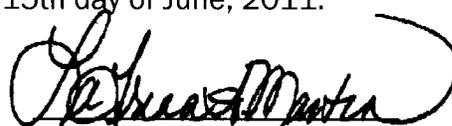
Dated: June 15, 2011



Jill M. Pietrini  
11355 West Olympic Boulevard  
Los Angeles, California 90064  
(310) 312-4000  
Attorneys for Petitioner

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. §2.195(a), on this 15th day of June, 2011.



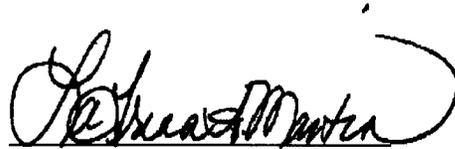
LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Chester Rothstein. Esq.  
Amster, Rothstein & Ebenstein, LLP  
90 Park Ave.  
New York, NY 10016

on this 15th day of June, 2011.

A handwritten signature in black ink, appearing to read "LaTrina A. Martin", written in a cursive style.

LaTrina A. Martin

300267956.1

# Exhibit 1



**United States Patent and Trademark Office**

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# REBELS

<b>Word Mark</b>	REBELS
<b>Goods and Services</b>	IC 025. US 022 039. G & S: Footwear. FIRST USE: 19930915. FIRST USE IN COMMERCE: 19931001
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77783154
<b>Filing Date</b>	July 16, 2009
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Owner</b>	(APPLICANT) Eyal Balle INDIVIDUAL UNITED STATES 14918 S. Figueroa Street c/o Rebels Gardena CALIFORNIA 90248
<b>Attorney of Record</b>	Jill M. Pietrini
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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**Serial Number:** 77783154 Assignment Information Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**

# REBELS

**(words only):** REBELS

**Standard Character claim:** Yes

**Current Status:** A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Date of Status:** 2010-12-15

**Filing Date:** 2009-07-16

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 112

**Attorney Assigned:**  
CORWIN KEVIN SCOTT

**Current Location:** M3X -TMO Law Office 112 - Examining Attorney Assigned

**Date In Location:** 2010-12-15

## LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Eyal Balle

**Address:**

Eyal Balle  
14918 S. Figueroa Street c/o Rebels  
Gardena, CA 90248  
United States

**Legal Entity Type:** Individual

**Country of Citizenship:** United States

**GOODS AND/OR SERVICES**

**International Class:** 025

**Class Status:** Active

Footwear

**Basis:** 1(a)

**First Use Date:** 1993-09-15

**First Use in Commerce Date:** 1993-10-01

**ADDITIONAL INFORMATION**

(NOT AVAILABLE)

**MADRID PROTOCOL INFORMATION**

(NOT AVAILABLE)

**PROSECUTION HISTORY**

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-12-15 - Non-final action mailed

2010-12-15 - Non-Final Action Written

2010-12-15 - Non-Final Action Written

2010-11-08 - Assigned To Examiner

2010-10-29 - LIE Checked Susp - To Atty For Action

2010-04-26 - Report Completed Suspension Check Case Still Suspended

2010-04-26 - Assigned To LIE

2009-10-26 - Letter of suspension mailed

2009-10-23 - Suspension Letter Written

2009-10-16 - Assigned To Examiner

2009-07-31 - Applicant amendment prior to exam entered

2009-07-30 - Assigned To LIE

2009-07-27 - TEAS Voluntary Amendment Received

2009-07-21 - New Application Office Supplied Data Entered In Tram

2009-07-20 - New Application Entered In Tram

**ATTORNEY/CORRESPONDENT INFORMATION**

**Attorney of Record**

Jill M. Pietrini

**Correspondent**

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