

ESTTA Tracking number: **ESTTA418149**

Filing date: **07/06/2011**

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	NMC LOGISTICS INTERNATIONAL, INC.		
Entity	Corporation	Citizenship	CALIFORNIA
Address	17870 CASTELTON STREET SUITE 246 CITY OF INDUSTRY, CA 91748 UNITED STATES		

Attorney information	Jen-Feng Lee LT Pacific Law Group LLP 17800 Castleton Street Suite 383 City of Industry, CA 91748 UNITED STATES jflee@ltpacificlaw.com, dhsu@ltpacificlaw.com Phone:626-810-7200		
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Registration Subject to Cancellation

Registration No	3973184	Registration date	06/07/2011
Registrant	NMC LOGISTICS INTERNATIONAL CO., LTD. Rm 801, No. 181, Fu Hsing N. Rd. Taipei, 105 TAIWAN		

Goods/Services Subject to Cancellation

Class 039. First Use: 2002/08/01 First Use In Commerce: 2002/08/01 All goods and services in the class are cancelled, namely: Shipping services, namely, shipping of goods and cargo; freight forwarding services; transportation services, namely, transportation of goods and cargo by sea, air and land

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	Cancellation.pdf (5 pages)(178247 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	/jflee/
Name	Jen-Feng Lee

Date	07/06/2011
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1
2 **In the United States Patent and Trademark Office**
3 **Before the Trademark Trial and Appeal Board**
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5 In the matter of registered trademark: NMC

6 Registrant: NMC Logistics International Co., Ltd.

7 Registration Number: 3973184

8 Registration Date: 06/07/2011

9 Filing Date: 07/27/2010

10
11 NMC Logistics International, Inc.

Cancellation No.

12 Petitioner.

13 vs.
14

15 NMC Logistics International Co. Ltd.

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17 Registrant.
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20 **Complaint for Cancellation**

21 Come now Petitioner NMC LOGISTICS INTERNATIONAL, INC. (“NMC
22 INC.”), a California corporation, and for its Cancellation Proceeding against the
23 Registrant of the registered mark of NMC (“The Mark”), having registration number
24 3973184, by the application number of 85094216 (“216 Application”) filed by registrant
25 NMC LOGISTICS INTERNATIONAL, CO. LTD. (“NMC CO. LTD”), a Taiwanese
26 corporation, with filing date of 07/27/2010, stated as follows:
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28

NMC INC.’ Complaint for Cancellation

- 1 1. At all relevant times, NMC CO. LTD. is 100% owned by a Mr. Bryan Fang,
2 who serves as the current General Manager (or Managing Director) of NMC
3 CO. LTD.
- 4 2. NMC CO. LTD. was incorporated in or around August of 2002 and was
5 doing business in Taiwan under that name.
- 6 3. NMC INC. was incorporated, in California, in May of 2005.
- 7 4. From May, 2005 to June 4, 2010, Mr. Bryan Fang served as the
8 CEO/President of NMC INC.
- 9 5. At all relevant times, Mr. Bryan Fang owns 50% of NMC INC.
- 10 6. Both NMC CO. LTD. and NMC INC. are NVOCC entities (Non Vessel
11 Operating Common Carrier being the full descriptive term of NVOCC) that
12 are in the business of providing services for shipping of goods, freight
13 transportation and forwarding and cargo logistics management.
- 14 7. From May, 2005 to May/June of 2010, NMC INC. served as NMC CO.
15 LTD.'s agent for handling shipping and logistic in the United States of
16 America.
- 17 8. Out of the blue, Mr. Bryan Fang indicated his intention to resign on 6/3/2010
18 and subsequently resigned his position of CEO/President and Director of
19 NMC INC. on 6/4/2010. Around that time, NMC CO. LTD. switched its U.S.
20 agent to a SES International, replacing NMC INC. as its U.S. agent for its
21 NVOCC business activities.
- 22 9. After Mr. Bryan Fang's no-prior-warning resignation of his post from NMC
23 INC. on 6/4/2010, he caused the 216 Application to be filed on 7/27/2010.
- 24 10. To meet the prima facie "exclusivity" requirement of a trademark right, Mr.
25 Bryan Fang included, in the 216 Application, a declaration under penalty of
26 perjury per 18 USC 1001, to the effect that "to the best of his/her knowledge
27 and belief no other person, firm, corporation, or association has the right to
28 use the mark in commerce, either in the identical form thereof."

- 1 11. To meet the prima facie “actual use” requirement of a trademark right, Mr.
2 Bryan Fang submitted the copyrighted web page designed by Eric Chang of
3 NMC INC. (It was work-made-for-hire and the copyright belongs to NMC
4 INC.)
- 5 12. Mr. Bryan Fang knows, as of today, that at all relevant time, his
6 knowledge/belief of “no other person, firm” having the right to use the mark
7 in commerce is FALSE.
- 8 13. The evidence for NMC CO. LTD.’s actual use is a web page designed by
9 NMC INC. Its copyright belongs to NMC INC. Mr. Bryan Fang, stole the
10 copyrighted webpage of NMC INC. without consent from NMC INC. (which
11 is an act of copyright infringement) in order to support its “use in commerce”
12 requirement.
- 13 14. In September of 2010, Mr. Bryan Fang filed s lawsuit in Los Angeles
14 Superior Court, seeking to dissolve NMC INC., citing his 50% shareholder
15 capacity and repeatedly asserted that the Court will dissolve NMC INC. The
16 case is currently pending in Los Angeles Superior Court, Pomona Division,
17 case number KC 059541, entitled Fang v. NMC Logistics International, Inc.
18 (Mr. Bryan Fang filed a second shareholder derivative lawsuit on 01/31/2011,
19 entitled Fang v. NMC Logistics international, Inc., KC 060457, however the
20 second case was consolidated into the first leading case.)
- 21 15. Petitioner NMC INC. recently discovered NMC CO. LTD.’s fraudulent act of
22 registering for the Mark and sent a counsel letter dated 6/14/2011 to demand
23 that NMC CO. LTD. abandon the Mark, due to the fraudulent act.
- 24 16. NMC CO. LTD. refused, and instead it insisted on dissolving NMC INC., in
25 the hope that NMC CO. LTD. will be able to completely wipe out the other
26 legitimate use (by NMC INC. since May of 2005) of the Mark, and gain the
27 exclusive usage of the Mark, despite its fraudulent acts.
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17. Registrant committed fraud at the time it filed its application when it submitted false declaration to support a prima facie case of “exclusivity”, and used Petitioner’s copyrighted web page without authorization to support its “use in commerce”.

18. As such, NMC CO. LTD. registered The Mark by fraud and The Mark should be cancelled.

Dated: July 6, 2011

/jflee/_____

Jen-Feng (Jeff) Lee
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CERTIFICATE OF SERVICE

The undersigned Attorney hereby certifies that a copy of the foregoing NMC INC.'s Complaint for Cancellation was served on the Registrant's attorney by mailing a true copy thereof by first class mail, postage prepaid, to the following address on July 6, 2011.

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