

ESTTA Tracking number: **ESTTA425116**

Filing date: **08/15/2011**

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	Texas Concrete Resurfacing LLC dba Koolcote of Texas		
Entity	Limited Liability Company	Citizenship	Texas
Address	4674 Priem Lane Suite 105 Pflugerville, TX 78660 UNITED STATES		

Attorney information	Jason R. Lee Lee, Lee & Associates, P.C. 2531 Jackson Road Suite 234 Ann Arbor, MI 48103 UNITED STATES jason@llapc.com Phone:866-400-2507		
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Registration Subject to Cancellation

Registration No	574843	Registration date	05/26/1953
Registrant	MOBILE PAINT MANUFACTURING COMPANY OF DELAWARE, INC. P.O. BOX 717 THEODORE, AL 36590-071 UNITED STATES		

Goods/Services Subject to Cancellation

Class U016 (International Class 002). First Use: 1938/01/12 First Use In Commerce: 1938/01/12
All goods and services in the class are cancelled, namely: DECORATIVE EXTERIOR AND INTERIOR STUCCO PAINT AND A PLASTIC PAINT FOR ROOFS

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	PETITION FOR CANCELLATION.pdf (4 pages)(283931 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	/Jason R. Lee/
Name	Jason R. Lee
Date	08/15/2011

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

Texas Concrete Resurfacing LLC)	
Dba Koolcote of Texas)	
Petitioner,)	Cancellation No. _____
)	In the Matter of
v.)	Registration No. 0574843
)	Filed: May 26, 1950
Mobile Paint Manufacturing Company)	Mark: Cool Cote
Of Delaware, Inc.)	
Respondent.)	Registered: May 26, 1953

PETITION FOR CANCELLATION

Petitioner, Texas Concrete Resurfacing LLC dba Koolcote of Texas (Petitioner), a Texas company, having its principal place of business at 4674 Priem Lane, Suite 105, Pflugerville, TX 78660, believes it will be damaged by Registration No. 0574843 (Registration) and hereby Petitions to cancel said Registration. The Registration is owned by Respondent, Mobile Paint Manufacturing Company of Delaware, Inc. (Respondent), and was filed on May 26, 1950, for the mark **COOL COTE**, in International Class 002 for “DECORATIVE EXTERIOR AND INTERIOR STUCCO PAINT AND A PLASTIC PAINT FOR ROOFS,” and claimed first use as early as January 12, 1938.

As grounds for this Petition, it is alleged that:

1. At least as early as May 1, 2009, Petitioner began using the name "Koolcote" for concrete sealers, decorative sprays, floor coatings, polymer coatings for concrete, and services relating to the application of the aforementioned goods.
2. Petitioner applied for a registered federal trademark for "Koolcote" for "Concrete sealers in the form of a coating; Decorative spray coating; Floor coatings; Paint for concrete floors; Penetrating sealer coatings for use on concrete; Polymer coatings for concrete," on April 6, 2011, serial no. 85288015.
3. Petitioner received an office action on July 8, 2011, stating that the application was being denied for the likelihood of confusion with the Respondent's registration no. 0574843, for "DECORATIVE EXTERIOR AND INTERIOR STUCCO PAINT AND A PLASTIC PAINT FOR ROOFS," which was filed on May 26, 1950, and registered on May 26, 1953.
4. Based upon information and belief, Registrant has abandoned use of its mark.
5. Respondent's mark, when applied to Respondent's goods, is likely to cause confusion in the marketplace with the "Koolcote" mark of Petitioner, because the marks and goods are similar.

Wherefore, Petitioner hereby requests that Registration No. 3351174 be canceled.

The fee of \$300 is enclosed.

Petitioner hereby appoints the law firm of Lee, Lee & Associates, P.C., and its members, all attorneys licensed to practice in Michigan, to act as attorneys for Petitioner with full power to prosecute this Cancellation and to transact all relevant business with the United States Patent and Trademark Office and to Receive all official communications in connection with this Cancellation.

Dates this 15th day of August, 2011.

Respectfully Submitted,

Texas Concrete Resurfacing LLC, dba
Koolcote of Texas.

By: /Jason R. Lee/
Jason R. Lee, Esq.
Attorney for Petitioner

Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, MI 48103
Tel: 866-400-2507
Fax: 800-689-7978
Email: Jason@llapc.com

I certify that the foregoing paper is being filed electronically via the Electronic System for Trademark Trials and Appeals (ESTTA).

Date: August 15, 2011

/Jason R. Lee/
Jason R. Lee

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2011, a true and correct copy of the foregoing Petition For

Cancellation was served upon:

Owner

Mobile Paint Manufacturing Company of Delaware, Inc.
P.O. Box 717, Theodore, Alabama 36590-071

BLP Mobile Paint Manufacturing Co., Inc.
4775 Hamilton Blvd., Theodore, AL 36582

And,

Attorney of Record

Frank P. Presta
Nixon & Vanderhye
11th Floor
901 North Glebe Road
Arlington, VA 22203

By First Class Mail addressed to the address listed above.

Date: August 15, 2011

/Jason R. Lee/
Jason R Lee