

ESTTA Tracking number: **ESTTA426060**

Filing date: **08/19/2011**

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	Mr. Timothy Pitka		
Entity	Individual	Citizenship	UNITED STATES
Address	4 Maritime Avenue Apt. 1420 White Plains, NY 10606 UNITED STATES		

Attorney information	Keith Barritt Fish & Richardson P.C. P.O. Box 1022 Minneapolis, MN 55440-1022 UNITED STATES tmdoctc@fr.com, barritt@fr.com, erickson@fr.com Phone:202-783-5070		
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### Registration Subject to Cancellation

Registration No	3088340	Registration date	05/02/2006
Registrant	Greene, Hal P.O. Box 457 Lake Hopatcong, NJ 07849 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 045. First Use: 2002/10/00 First Use In Commerce: 2004/10/00 All goods and services in the class are cancelled, namely: Internet dating service
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### Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	meet cancellation.pdf ( 12 pages )(830515 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	/Keith Barritt/
Name	Keith Barritt

Date	08/19/2011
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 3,088,340  
For the mark MEET.COM  
Registered on May 2, 2006

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TIMOTHY PITKA  
Petitioner

v.

HAL GREENE,  
Registrant

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Cancellation No.: \_\_\_\_\_

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PETITION TO CANCEL

Timothy Pitka, an individual with an address of 4 Martine Ave., Apt. 1420, White Plains, New York 10606 (“Petitioner”) believes that he will be damaged by the continued registration of the mark MEET.COM by Hal Greene (“Registrant”). Accordingly, Petitioner hereby requests the cancellation of Registrant’s MEET.COM registration pursuant to 15 U.S.C. § 1064

The grounds for the petition to cancel are as follows:

1. Registrant is the owner of record of the MEET.COM registration for an Internet dating service.
2. Petitioner is the owner of trademark application for MEET for computer software for facilitating interpersonal dating and dating services (Ser. No. 85/269,761).
3. The examiner at the U.S. Trademark Office has cited the MEET.COM registration as a potential bar to registration of Petitioner's MEET trademark.
4. An accurate reproduction of the specimen of use submitted by Registrant with its Statement of Use filed with the U.S. Trademark Office on February 14, 2006 (Valentine's Day) is included as Exhibit 1.
5. Registrant claimed in its Statement of Use that the MEET.COM mark was in use in U.S. commerce with Internet dating services on the filing date of the Statement of Use.
6. According to the Internet archive "Wayback Machine," as of April 6, 2006 the meet.com website simply displayed the mark, but without any promotional material or advertisement for the services or any indication that the services were actually being rendered (see Exhibit 2).
7. Upon information and belief, Registrant did not actually offer Internet dating services in interstate commerce on February 14, 2006 as claimed in the Statement of Use filed for the MEET.COM registration.

8. Upon information and belief, Registrant has not used MEET.COM in U.S. commerce as a trademark for its own Internet dating services since at least April, 2006.

9. Enclosed as Exhibit 3 is a printout from the Internet website accessible via the domain name www.meet.com, which is an accurate depiction of the website as of August 19, 2011.

10. As demonstrated in Exhibit 3, the web site is “coming soon.”

11. No Internet dating services are actually being rendered via the www.meet.com website.

12. Upon information and belief based on an investigation of potential use of MEET.COM, the mark is not currently in use by Registrant as a trademark.

13. As defined in Section 45 of the Lanham Act, a service mark is “used” when the mark “is used or displayed in the sale or advertising of services and the services are rendered” in commerce.

14. Merely advertising services with an intent to provide the services in the future does not constitute the rendering of services (see, e.g., *In re Kronholm*, 230 USPQ 136, 137 (TTAB 1986) (“[i]t is clear that a service mark is not eligible for registration until it has been used or displayed in the sale or advertising of services and the services have been rendered in commerce . . . [T]he use of a mark in the announcement of a future service does not constitute use as a service mark. Rather, the use in advertising of a service must be advertising which relates to an

existing service which has already been offered to the public”); *The Greyhound Corporation, et al. v. Armour Life Insurance Co.*, 214 USPQ 473, 474 (TTAB 1982) (“it is well settled that advertising of a service, without performance of a service, will not support registration”).

### **Count 1 - Fraud**

15. When Registrant filed its Statement of Use on February 14, 2006 alleging that MEET.COM was in use in U.S. commerce as a trademark for Internet dating services, such services were not actually being rendered in U.S. commerce.

16. Registrant intended to deceive the U.S. Trademark Office by falsely claiming use in U.S. commerce as a trademark of MEET.COM for Internet dating services when it knew that such services were not actually being rendered at the time it filed its Statement of Use.

17. Petitioner is entitled to cancel the registration of MEET.COM because Registrant committed fraud in falsely claiming use in U.S. commerce of MEET.COM for Internet dating services when it filed its Statement of Use.

### **Count II – Non-Use of Mark**

18. Registrant’s claim of use in U.S. commerce of MEET.COM as a trademark at least as of February 14, 2006 for Internet dating services in its Statement of Use was false.

19. Petitioner is entitled to cancel the registration of MEET.COM because Registrant did not use the mark and the services were not being rendered as of the filing date of the Statement of Use.

**Count III – Abandonment**

20. If Registrant has used the MEET.COM in the past as a trademark for Internet dating services, it has abandoned the mark due to subsequent discontinuance of use with an intent not to resume such use as a trademark.

WHEREFORE, because continued registration of MEET.COM confers upon Registrant various statutory presumptions to which it is not entitled, and may prevent registration by Petitioner of its MEET mark, Petitioner respectfully requests that Registrant's MEET.COM registration be cancelled.

Respectfully submitted,



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Keith A. Barritt, Esq.  
FISH & RICHARDSON, P.C.  
P.O. Box 1022  
Minneapolis, MN 55440-1022  
phone: (202) 783-5070  
fax: (877) 769-7945  
Attorneys for Petitioner

Aug. 19, 2011  
Date

40747212.doc

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

In the matter of Registration No. 3,088,340  
For the mark MEET.COM  
Registered on May 2, 2006

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TIMOTHY PITKA

Petitioner

v.

HAL GREENE,

Registrant

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Cancellation No.: \_\_\_\_\_

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CERTIFICATE OF SERVICE

In accordance with 37 CFR 2.111(b), the undersigned hereby certifies that on August 19, 2011, a true copy of the foregoing PETITION TO CANCEL was deposited in the U.S. mail, first-class, postage prepaid, addressed to the following:

Mr. Hal Greene  
P.O. Box 457  
Lake Hopatcong, NJ 07849

  
\_\_\_\_\_  
Signature

40747212.doc

# EXHIBIT 1



Match Your Interests

- ENTERTAINMENT
- FOOD AND WINE
- HOBBIES/ACTIVITIES
- LEARNING / EDUCATION
- NETWORKING

2 or 3 Buddies

- NEW IN TOWN
- TRAVEL BUDDIES
- SPORTS BUDDIES
- ENTERTAINMENT BUDDIES
- DIVORCED
- WIDOWED

The Store

- Buy a date
- Trade dates
- Give dates
- Buy Cool Stuff
- Send a gift
- Concealage



VOTE FOR ED OR EVE

- How much should I spend on a first date?
  - Should I kiss him on the first date?
- Take the poll give us your feedback

Featured TV Shows



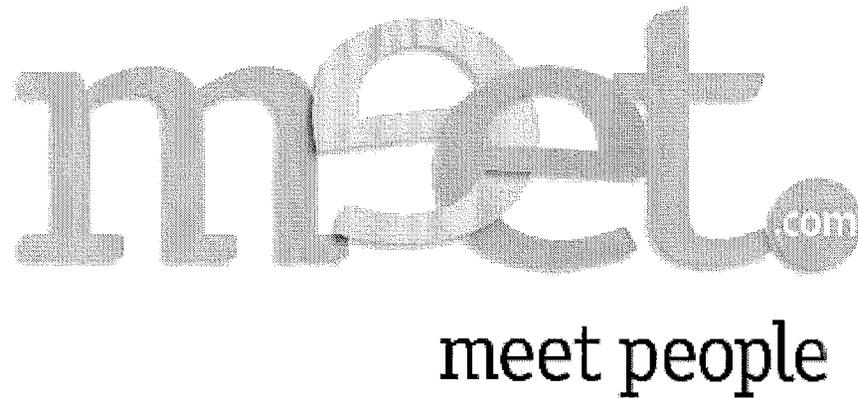
Win a trip to Hollywood and a walk on to the FRIENDS TV Show.

CREATE YOUR PROFILE  
SIGN UP FREE

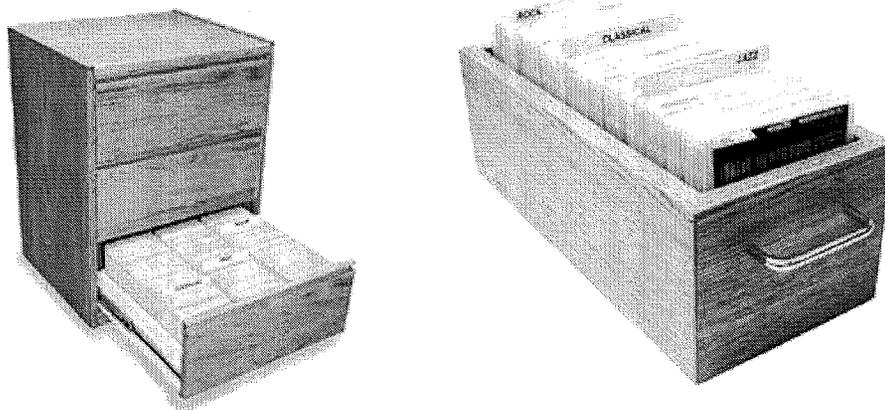
Sign in  
 User Name   
 Password   
 FORGOT YOUR PASSWORD?

# EXHIBIT 2

INTERNET ARCHIVE  
Wayback Machine  
http://www.meet.com/ (Go)  
115 captures  
7 Dec 98 - 20 Dec 08  
FEB APR MAY Close  
◀ 6 ▶  
2005 2006 2008 Help



CHECK OUT [JEWELSLEEVE.COM](http://www.jewelsleeve.com) FOR UNIQUE CD STORAGE SOLUTIONS



# EXHIBIT 3



**Turbo Charged Web Hosting!**  
Plans from \$4.99/mo! Free setup & Email  
FREE live 24/7 Live Support!

**Build your Web site Online in Minutes!**  
Includes FREE Hosting & Email!  
Complete creative packages from \$3.99/mo!



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