

ESTTA Tracking number: **ESTTA423365**

Filing date: **08/04/2011**

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	Hat World, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	7555 Woodland Drive Indianapolis, IN 46278 UNITED STATES		

Attorney information	David L. May Nixon Peabody LLP 401 9th Street NW Suite 900 Washington, DC 20004 UNITED STATES was.managing.clerk@nixonpeabody.com,dmay@nixonpeabody.com,jmolinoff@nixonpeabody.com,gmccreadie@nixonpeabody.com Phone:202.585.8000
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Registration Subject to Cancellation

Registration No	3016764	Registration date	11/22/2005
Registrant	Pass The Roc Athletics, Inc. 72 Van Reipen Avenue, Suite 121 Jersey City, NJ 07306 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 1997/01/00 First Use In Commerce: 1997/01/00 All goods and services in the class are cancelled, namely: Athletic, casual and dress apparel, namely, T-shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, sport shirts, rugby shirts, sweaters, hats, caps, warm-up suits, jackets, coats, headbands, wrist bands, polo shirts, uniforms

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	FIRM_DM-#13566663-v4-Petition_to_Cancel__Pass_the_Roc.pdf (4 pages) (13868 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	/rml/
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Name	Renee Lawson
Date	08/04/2011

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

In re the Matter of:
Registration No.: 3,016,764
Mark: PASS THE ROC
Filed: December 13, 2003
Registered: November 22, 2005

_____)	
Hat World, Inc.,)	
)	
Petitioner,)	
)	
v.)	Proceeding No. _____
)	
Pass The Roc Athletics, Inc.,)	
)	
Registrant)	
_____)	

PETITION TO CANCEL

Hat World, Inc. (“Petitioner”), a Minnesota corporation with its principal place of business at 7555 Woodland Drive, Indianapolis, Indiana 46278, has been damaged and will continue to be damaged by the continued registration of the above-cited registration of Pass The Roc Athletics, Inc. (“Registrant”), a company formerly incorporated in New Jersey with an address of record at 72 Van Reipen Avenue, Suite 121, Jersey City, NJ 07306, and hereby petitions to cancel U.S. Registration No. 3,016,764.

As grounds for its Petition to Cancel, Petitioner alleges as follows:

1. Petitioner is the owner of valid and subsisting U.S. Trademark Registrations for the mark THE ROCK and variations thereof (“the ROCK Marks”) for use with a wide variety of sports-related goods and services, including but not limited to, *basketballs and basketball equipment, namely basketball backboards, basketball rims, and inflatable game balls; athletic sporting goods namely, baseballs and softballs; athletic equipment, namely, ball racks, basketballs, basketball rims, and bags for carrying sport balls; athletic clothing, namely, shirts,*

including t-shirts, golf shirts, sweat shirts and sport shirts; shorts; including cycling shorts, running shorts, and sweat shorts; pants, including sweat pants; swim suits; jackets; parkas; ponchos; sweaters; vests; hats; caps; headbands; warm-up suits; shoes; socks; gloves; belts; and team uniforms; retail services, namely, online retail store services and mail order catalog services, featuring sporting equipment and accessories; mail order catalog services and mail order services, wholesale distributorship services, and retail store services, all featuring sporting equipment, sports memorabilia, athletic equipment, athletic and sports uniforms and shoes, clothing, luggage and carrying bags; and online retail store services and retail sports services in the field of sports and sports equipment.

2. Petitioner and its predecessor in interest have expended considerable resources in the marketing and sales of goods and services bearing the ROCK Marks. As a result of these efforts, Petitioner enjoys substantial consumer recognition and goodwill established in and to the mark THE ROCK and variations thereof.

3. Petitioner and its predecessor in interest have used in commerce, and have established prior rights in the ROCK Marks in connection with at least the goods and services listed above long prior to any date Registrant can rely on for use of the PASS THE ROC mark. Registrant is the owner of record of U.S. Trademark Registration No.: 3,016,764 for the mark PASS THE ROC, filed December 13, 2003 and registered November 22, 2005 (“the Subject Mark”).

4. Upon information and belief, Registrant is no longer established as a corporate entity.

5. Upon information and belief, Registrant no longer exists as an entity.

6. Upon information and belief, the Subject Mark has been abandoned within the meaning of 15 U.S.C. § 1127.

7. Upon information and belief, Registrant has discontinued use of the mark in commerce with intent not to resume such use.

8. Upon information and belief, at least three consecutive years have elapsed since Registrant used the Subject Mark in commerce.

9. Registrant’s non-use of the Subject Mark for at least three consecutive years constitutes *prima facie* evidence of Registrant’s abandonment of the mark.

10. Petitioner believes that it has been damaged and will continue to be damaged by virtue of Registrant's registration of the mark PASS THE ROC, as set forth in U.S. Registration No. 3,016,764.

WHEREFORE, Petitioner prays that this Petition be sustained and that U.S. Registration No. 3,016,764 be cancelled.

Dated: August 4, 2011

Respectfully submitted,

HAT WORLD, INC.

/JSM/

David L. May, Esq.
Jeffrey S. Molinoff, Esq.
Gina McCreadie, Esq.

Attorneys for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served via first-class mail, postage prepaid, on August 4, 2011, on the following:

Pass The Roc Athletics, Inc.
72 Van Reipen Avenue, Suite 121
Jersey City, NJ 07306

/Renee Lawson/
Renee Lawson