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

Proceeding	92054629
Party	Plaintiff Sheltered Wings, Inc.
Correspondence Address	JENNIFER L GREGOR GODFREY & KAHN SC ONE EAST MAIN STREET, SUITE 500 MADISON, WI 53703 UNITED STATES jgregor@gklaw.com, jpeterson@gklaw.com, apeterson@gklaw.com, docketing@gklaw.com
Submission	Motion to Amend Pleading/Amended Pleading
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Signature	/Jennifer L. Gregor/
Date	08/24/2012
Attachments	motion to amend.pdf (8 pages)(36421 bytes)

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

In re Registration No. 3,904,929)	
)	
SHELTERED WINGS, INC.)	
)	
Petitioner,)	Cancellation No. 92054629
)	
v.)	
)	
WOHALI OUTDOORS, LLC)	
)	
Respondent.)	
)	

**MOTION FOR LEAVE TO FILE
AMENDED PETITION FOR CANCELLATION**

In accordance with Federal Rule of Civil Procedure 15 and Trademark Rule 2.115, petitioner, Sheltered Wings, Inc., moves for leave to file an amended Petition for Cancellation. The proposed Amended Petition for Cancellation is attached to this motion as Exhibit A.

The reason for the amendment is that, in connection with the collection of documents for use in discovery responses (which are currently suspended) and for use in Petitioner’s opposition to Respondent’s motion for summary judgment, Petitioner discovered that its registration numbers 3,726,431 for the mark STRIKE EAGLE for binoculars and riflescopes, and 3,794,245 for the mark EAGLE OPTICS for riflescopes, are not currently in use with the goods identified in the registrations. Accordingly, Petitioner seeks amendment of the petition to withdraw these registrations from the proceeding.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

By: /Jennifer L. Gregor/
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion for Leave to File Amended Petition for Cancellation was served by first class mail, postage prepaid, on August 24, 2012, upon the following:

Steven M. Harris (steve.harris@1926blaw.com)
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/Jennifer L. Gregor/
Jennifer L. Gregor

EXHIBIT A

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

In re Registration No. 3,904,929)	
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SHELTERED WINGS, INC.)	
Petitioner,)	Cancellation No. 92054629
)	
v.)	
)	
WOHALI OUTDOORS, LLC)	
)	
Respondent.)	

AMENDED PETITION FOR CANCELLATION

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:

Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001 1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting.

Additionally, Registration Nos. 2,886,199 and 3,192,083 are incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings’ extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC (“Wohali”), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for “Magnifying optical equipment, namely, rifle scopes and binoculars,” in Class 9 (the “STEEL EAGLE Registration”), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali’s goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali’s STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings’ pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

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