

ESTTA Tracking number: **ESTTA436154**

Filing date: **10/17/2011**

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	U&Me Beverage Company		
Entity	Corporation	Citizenship	Canada
Address	Unit A, 450 Export Blvd Mississauga, ONT L5S 2A4 CANADA		

Attorney information	Keith A. Weltsch Scully, Scott, Murphy & Presser, P.C. 400 Garden City Plaza Suite 300 Garden City, NY 11530 UNITED STATES intprop@ssmp.com Phone:516-742-4343		
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**Registration Subject to Cancellation**

Registration No	3639913	Registration date	06/16/2009
International Registration No.	NONE	International Registration Date	NONE
Registrant	Jean-Paul Lissock Loewengasse 9 Bad Homburg, 61348 GERMANY		

**Goods/Services Subject to Cancellation**

<p>Class 032. All goods and services in the class are cancelled, namely: Non-alcoholic aperitifs; non-alcoholic cocktails; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic fruit juice beverages; non-alcoholic beverages containing fruit juices; non-alcoholic honey-based beverages; apple juice beverages; beer; sherbet powder for making beverages, namely, soft drinks, isotonic sport drinks; sherbet tablets for making beverages, namely, soft drinks, isotonic sport drinks; peanut milk; essences for making beverages, namely, mineral waters, soft drinks; fruit nectars; fruit juices; vegetable juices; hop extracts for making beer; ginger beer; isotonic drinks; aerated waters; lemonades; syrups for lemonades; malt beer, almond milk beverages; almond milk syrup for making beverages; mineral waters; whey beverages; must; preparations for making beverages, namely, fruit drinks and isotonic drinks; preparations for making liquors; sparkling water; syrups for beverages; soda water; sorbets in the form of beverages; table waters; tomato juice beverages; grape must; drinking water</p>
<p>Class 033. All goods and services in the class are cancelled, namely: Non-alcoholic wines; alcoholic fruit extracts; alcoholic beverages except beers; alcoholic cocktails containing milk; alcoholic essences; alcoholic extracts; alcoholic fruit beverages; alcohol reduced wines; aperitifs; hard cider; aquavit; brandy; prepared alcoholic cocktails; cognac; gin; mead; liquors; alcoholic bitters; rum; sake; sparkling wine; spirits; wines; whisky; vodka</p>

## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation.pdf ( 4 pages )(1550473 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 A. Weltsch/
Name	Keith A. Weltsch
Date	10/17/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Registration No. 3,639,913

Registered on June 16, 2009

For the Mark: You & Me and Design

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U&Me Beverage Company,	:	
	:	
Petitioner	:	
	:	Cancellation No.
v.	:	
	:	
Jean-Paul Lissock,	:	
	:	
Respondent.	:	
-----X		

**PETITION FOR CANCELLATION**

Petitioner, U&Me Beverage Company (“Petitioner”), a company organized under the laws of Canada, having a place of business at Unit A, 450 Export Blvd, Mississauga, Ontario CANADA L5S2A4, believes that it is, and will continue to be, damaged by the above-identified registration, and hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. Respondent, Jean-Paul Lissock, (“Respondent”) an individual, who is a citizen of Germany, is listed as the owner of U.S. Registration No. 3,639,913 for the mark You & Me with an accompanying handshake design (hereinafter referred to as “the You & Me registration”) for use in connection with “Non-alcoholic aperitifs; non-alcoholic cocktails; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic fruit juice beverages; non-alcoholic beverages containing fruit juices; non-alcoholic honey-based beverages; apple juice beverages; beer; sherbet powder for making beverages, namely, soft drinks, isotonic sport drinks; sherbet tablets for making beverages, namely, soft drinks, isotonic sport drinks; peanut milk; essences for making beverages, namely, mineral waters, soft drinks; fruit nectars; fruit juices; vegetable juices; hop extracts for making beer;

ginger beer; isotonic drinks; aerated waters; lemonades; syrups for lemonades; malt beer, almond milk beverages; almond milk syrup for making beverages; mineral waters; whey beverages; must; preparations for making beverages, namely, fruit drinks and isotonic drinks; preparations for making liquors; sparkling water; syrups for beverages; soda water; sorbets in the form of beverages; table waters; tomato juice beverages; grape must; drinking water” in International Class 32 and “Non-alcoholic wines; alcoholic fruit extracts; alcoholic beverages except beers; alcoholic cocktails containing milk; alcoholic essences; alcoholic extracts; alcoholic fruit beverages; alcohol reduced wines; aperitifs; hard cider; aquavit; brandy; prepared alcoholic cocktails; cognac; gin; mead; liquors; alcoholic bitters; rum; sake; sparkling wine; spirits; wines; whisky; vodka”.

2. Petitioner currently has three applications pending before the U.S. Patent and Trademark Office containing the lettering “u&me” for the marks, U&ME JUICE (with fruit design) (U.S. Serial No. 85/360,984) for use in connection with “Fruit flavored drinks; Fruit juices and fruit drinks” in International Class 32, U&ME JUICE (word mark) (U.S. Serial No. 85/360,972) for use in connection with “Fruit flavored drinks; Fruit juices and fruit drinks” in International Class 32, and U&ME (with fruit design) (U.S. Serial No. 85/317,965) ( for use in connection with “Flavored waters; fruit juices and fruit drinks; fruit flavored drinks” in International Class 32.

3. Upon information and belief, Respondent has not commenced use of the mark You & Me with an accompanying handshake design mark registered under U.S. Registration No. 3,639,913 on any of the goods listed in said registration in the United States, and Respondent has no intention to commence such use of said mark on the goods referenced in the You & Me registration.

4. As a result of such nonuse, Respondent’s You & Me (with an accompanying handshake design) mark registered under U.S. Registration No. 3,639,913 has lost all capacity as a source indicator for Respondent’s goods in the United States, and in fact, never acted as a source indicator for such goods.

5. Petitioner is damaged by the continued registration of Respondent's You & Me registration because Petitioner's pending applications containing the wording "U&ME" have all been rejected on the basis of confusion with the You & Me registration, and the continued existence of Respondent's You & Me registration will act as a blight on Petitioner's use and registration of its various "U&ME" marks set out in Paragraph 2 above.

6. In view of the above allegations, Respondent is not entitled to continue registration of its alleged mark since Respondent's "You & Me" mark (with accompanying handshake design) has become abandoned because of Respondent's nonuse of the same in the United States, because Respondent's "You & Me" (with an accompanying handshake design) mark has lost all significance as a source indicator in the United States, and in fact never had any such significance as a source indicator in light of the fact that Respondent never used the "You & Me" mark in the United States, and because Respondent has no intention to commence use of the You & Me (with accompanying handshake design) mark for the goods covered by U.S. Reg. No. 3,639,913 in the United States.

7. Petitioner hereby requests that the required \$600 fee to cancel U.S. Reg. No. 3,639,913 proscribed under 37 C.F.R. §2.6 be withdrawn from Deposit Account No. 19-1013.

WHEREFORE, Petitioner respectfully prays that Registration No. 3,639,913 be canceled in its entirety.

Petitioner hereby appoints the following attorneys, to whom all correspondence should be addressed, to prosecute this Cancellation and transact all business in the Patent and Trademark Office connected therewith:

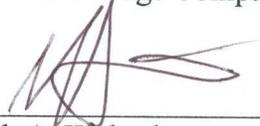
Please address all correspondence to:

Keith A. Weltsch  
SCULLY, SCOTT, MURPHY & PRESSER, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
Telephone: (516) 742-4343

Respectfully submitted,

U&Me Beverage Company

Dated: October 17, 2011

By: 

Keith A. Weltsch

SCULLY, SCOTT, MURPHY & PRESSER, P.C.

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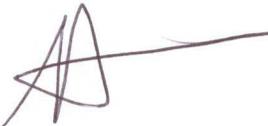
COUNSEL FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing PETITION FOR CANCELLATION is being deposited with the United States Postal Service as first class mail, postage prepaid, to Respondent and attorney for Respondent on this 17<sup>th</sup> day of October, 2011 as follows:

Jean-Paul Lissock  
Loewengasse 9  
Bad Homburg 61348  
Fed Rep Germany

Klinkert Zindel Partner  
Taunusanlage 15  
60325 Frankfurt am Main  
Germany



Keith A. Weltsch