

ESTTA Tracking number: **ESTTA437551**

Filing date: **10/25/2011**

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	Karen L. Willis		
Entity	Individual	Citizenship	UNITED STATES
Address	P.O. Box 1022 La Jolla, CA 92038 UNITED STATES		

Correspondence information	Karen L. Willis P.O. Box 1022 La Jolla, CA 92038 UNITED STATES karen@victorwillisworld.com Phone:(619) 206-5311		
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Registration Subject to Cancellation

Registration No	3821800	Registration date	07/20/2010
Registrant	CAN'T STOP PRODUCTIONS INC. c/o Marcum LLP, 750 Third Ave., 11th Fl New York, NY 10011 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 1988/00/00 First Use In Commerce: 1988/00/00 All goods and services in the class are cancelled, namely: Compact discs featuring music and vocals; downloadable musical sound recordings

Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	Inequitable Conduct

Related Proceedings	2,184,290 Cancellation No. 92051212
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Attachments	Petition for Cancellation or Other Appropriate Pleading.pdf (7 pages)(471278 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	/Karen L. Willis/
Name	Karen L. Willis
Date	10/25/2011

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

Registration No: 3,821,800
Registration Date: July 20, 2010

CANCELLATION NO:

KAREN L. WILLIS,

Petitioner,

v.

CAN'T STOP PRODUCTIONS, INC.

Registrant

PETITION FOR CANCELLATION
AND/OR OTHER APPROPRIATE PLEADING

KAREN L. WILLIS (Petitioner), an individual, having her principle business address as P.O. Box 1022 La Jolla, CA. 92038, has an interest in the outcome of the mark and believes that she, personally, is damaged by registration No. 3,821,800 and petitions to cancel same under the provisions of 15 U.S.C. § 1064(3). As grounds for cancellation, Petitioner asserts as follows:

1. Petitioner is the wife and manager of Victor Willis, the original lead singer of the Village People.
2. Petitioner believes she is harmed because the mark interferes with her ability to manage the original lead singer of the Village People.
3. Upon information and belief, Can't Stop Productions, Inc., (the "Registrant") is a

New York Corporation.

4. On December 21, 2009, Registrant filed an application to register the mark VILLAGE PEOPLE in International Class 9 despite the fact that Registrant's mark was pending cancellation before the TTAB.

5. On July 20, 2010, Registrant obtained a new registration for the mark Village People in International Class 9. The USPTO would not have allowed such registration were it not for Registrant's inequitable conduct. Accordingly, the mark must be annulled.

6. As an additional cause for cancellation, Registration No. 3,821,800 is merely descriptive and cannot function as a mark.

First Basis for Cancellation – Fraudulent/Inequitable Conduct

7. Upon information and belief, Registrant, Henri Belolo, and his counsel, Jay A. Bondell, sought to have a new application filed with the USPTO after Petitioner, in a meet and confer conversation with Bondell, argued that she would prevail on the cancellation because his client, Belolo, had not continued to use the mark in interstate commerce with respect to all the items listed, specifically, phonograph recordings, cassette tapes and other audio formats. Bondell stated that his client could seek to amend. Petitioner informed Bondell that he ought to know that amendments to a mark are not allowed pending a petition to cancel because it would be an inequitable act, which would tend to undermine the petition for cancellation. Bondell then asked Petitioner, in a devil's advocate tone of voice, that couldn't his client simply file a new application omitting phonograph records and cassettes? Petitioner responded no, citing section 2.133. Bondell concluded his comments with Petitioner by assuring her that his client would not seek to amend or file a new application because the petition to cancel is

without merit. Petitioner concluded her comments with Bondell by suggesting that his client (Registrant) would almost certainly lose as to the issue of nonuse and therefore ought to consider settling.

8. On December 21, 2009, Registrant filed with the U.S. Trademark Office an application for the registration of the mark Village People in International Class 9. This deceitful and inequitable act amounted to an amendment and/or disclaiming, in part, of a trademark under cancellation (No. 92051212) without consent of the opposing party, the TTAB or motion granted by the Board, in violation of section 2.133 of U.S. Trademark Law.

9. Registrant's filing of a new application was done so with specific intent to induce the USPTO to issue a new registration in International Class 9 in efforts to nullify any cancellation resulting from nonuse of "pre-recorded phonograph records, audio cassettes, [and] audio tapes featuring music," as reflected in Registration No. 2,184,290 currently under cancellation. Registrant failed to disclose to the USPTO material information that would have prevented new registration of the mark amounting to an amendment and/or disclaiming in part of a trademark under cancellation.

10. The USPTO would not have allowed such registration but for Registrant's inequitable and fraudulent conduct. Registrant knew that any new registration of the mark while under cancellation is not allowed and would in fact amount to fraud with inequitable results because Registrant's counsel, Jay A. Bondell, was put on notice of such by Petitioner.

11. Furthermore, Bondell is an experienced patent and trademark lawyer who already

knew the filing of a new application omitting products material to a mark currently under cancellation would amount to inequitable conduct on his behalf and would in fact violate U.S. Trademark Law, but chose to engage in the fraudulent and inequitable behavior notwithstanding the inequitable results and the law in efforts to score a win for his client, Henri Belolo (Registrant), at any cost; even if it meant filing a new application without consent of neither Petitioner nor the TTAB.

12. Moreover, Bondell and Registrant (Belolo) was obliged to be candid with the USPTO regarding the existing mark under cancellation in International Class 9. But instead, chose to suppress evidence as well as any knowledge of the prior trademark under cancellation. Bondell and Registrant knew the prior mark, Village People, was under cancellation but failed to inform the TTAB of the new application because they intended to adversely effect or nullify any voiding of the prior mark under cancellation. Bondell and Registrant's acts amounted to a deliberate deceit regarding a material aspect of the new mark, which in turn deprived the USPTO of material information, which is why the concealment and/or deliberate omission mattered significantly.

13. Bondell did so in effort to induce the USPTO to issue the new trademark omitting the problem nonuse items. The USPTO would not have issued the new registration but for Bondell and Registrant's omission of material information that would have caused the USPTO not to issue the new registration.

14. On information and belief, Registrant (Henri Belelo), consented to the fraudulent and inequitable behavior by specifically approving the filing of the new application for a mark under cancellation with knowledge that such consent was fraudulent and inequitable.

15. The U.S. Trademark Office would not have allowed Registration No. 3,821,800 to issue in class 9, but for Registrant's knowingly fraudulent and inequitable conduct. Registrant specifically intended to deceive the U.S. Trademark Office. Therefore the mark must be annulled.

Second Basis for Cancellation – Descriptiveness

16. The Village People mark is merely descriptive because it conveys information concerning a quality, characteristic, function, ingredient, attribute and/or feature of the product and service in connection with which it is used.

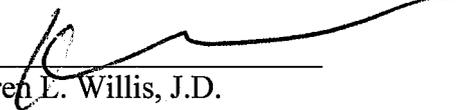
17. On information and belief, the Village People mark describes, including but not limited to, a single significant quality. That is, "compact discs, and downloadable digital sound recordings by, and attributable, to people in a village or Village People. In addition, the product and service features, or is attributable to, a group or type of people, or characters found in a village, namely, Greenwich Village, New York. Moreover, the mark is representative of specific people and characters from, or in the village. Hence, Village People.

18. Accordingly, the term is descriptive, cannot function as a mark, and must therefore be cancelled.

WHEREFORE, Petitioner prays that Registration No. 3,821,800 be cancelled pursuant to 15 U.S.C. §§ 1064(3) because: (1) the Village People trademark has been obtained by Registrant through fraudulent and inequitable means; and (2) the Village People trademark is merely descriptive.

Dated: October 24, 2011

Respectfully submitted,



Karen E. Willis, J.D.
Petitioner

CERTIFICATE OF SERVICE

Pursuant to C.R.F. § 2.11, I hereby certify that a true and correct copy of the foregoing

SECOND AMENDED Petition for Cancellation was served, First Class Mail, on

Registrant Can't Stop Productions, Inc., at the following address:

Can't Stop Productions, Inc
C/O JAY A. BONDELL
LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK, NY 10018



Karen L. Willis, J.D.