

ESTTA Tracking number: **ESTTA450614**

Filing date: **01/11/2012**

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	Stara USA, LLC		
Entity	Corporation	Citizenship	New Jersey
Address	505 Elm Avenue Moorestown, NJ 08057 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com		
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**Registration Subject to Cancellation**

Registration No	3921228	Registration date	02/15/2011
Registrant	Stiegler, Marjorie PH5 4139 Via Marina Marina Del Rey, CA 90292 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2010/04/09 First Use In Commerce: 2010/04/09  
All goods and services in the class are cancelled, namely: Maternity athletic clothing, namely, tank tops, t-shirts, long-sleeved shirts, shorts, pants, skirts, and jackets

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	3782187	Application Date	12/01/2008
Registration Date	04/27/2010	Foreign Priority Date	NONE
Word Mark	POUR DEUX MATERNITY FOR TWO TRADE MARK		

Design Mark	
Description of Mark	<p>The mark consists of The words, "POUR DEUX", in a stylized format with the image of a flower bud within the letter "D", all preceded by the word, "TRADE", and succeeded by the word, "MARK". Beneath all of the forgoing is the phrase, "MATERNITY FOR TWO".</p>
Goods/Services	<p>Class 004. First use: First Use: 2008/12/01 First Use In Commerce: 2009/05/01 Candles; Perfumed candles; Scented candles</p> <p>Class 018. First use: First Use: 2008/12/01 First Use In Commerce: 2010/01/06 Baby carrying bags; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Bags for carrying babies' accessories; Beach bags; Carry-all bags; Cosmetic bags sold empty; Diaper bags; Drawstring bags; General purpose bags for carrying yoga equipment; Leather and imitation leather bags; Make-up bags sold empty; Shoulder bags; Toiletry bags sold empty; Travel bags; Traveling bags; Travelling bags; Wheeled bags</p> <p>Class 025. First use: First Use: 2008/12/01 First Use In Commerce: 2010/01/06 Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Bermuda shorts; Blouses; Capri pants; Cargo pants; Crew neck sweaters; Denims; Dress shirts; Dress suits; Dresses; Dressing gowns; Evening dresses; Gym shorts; Jerseys; Knit shirts; Knitted underwear; Lounge pants; Maternity lingerie; Maternity sleepwear; Mock turtle-neck sweaters; Nurse dresses; Panties, shorts and briefs; Pants; Short sets; Short trousers; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Skirt suits; Skirts; Skirts and dresses; Sports shirts with short sleeves; Stretch pants; Sweat pants; Sweat shorts; Sweaters; Tank tops; Tank-tops; Tops; Turtleneck sweaters; Underwear, namely, boy shorts; V-neck sweaters; Walking shorts; Wearable garments and clothing, namely, shirts; Wedding dresses; Woven or knitted underwear; Wraps; Yoga pants</p>

Attachments	<p>77624212#TMSN.jpeg ( 1 page )( bytes ) Petition to Cancel.pdf ( 5 pages )(40698 bytes )</p>
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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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	01/11/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,921,228,  
For the mark FOR TWO FITNESS,  
Registered on the Principal Register on February 15, 2011.

Stara USA, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
Majorie Stiegler,	:	
	:	
Registrant.	:	

**PETITION TO CANCEL**

Petitioner, Stara USA, LLC (hereinafter “Petitioner”), a Limited Liability Company located and doing business at 505 Elm Avenue, Moorestown, New Jersey, 08057, believes that it is and will continue to be damaged by the continued registration of U.S. Registration 3,921,228 for the mark FOR TWO FITNESS and, accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

**Grounds for Cancellation**

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant Majorie Stiegler (hereinafter “Registrant”) mark FOR TWO FITNESS as more fully displayed in U.S. Registration No. 3,921,228 would be likely to cause confusion with

Petitioner’s mark and design  which retains priority of use over Registrant’s mark FOR TWO FITNESS by virtue of its prior use in commerce in the United States.

## Statement of Facts

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owner of the mark and design  used on or in connection with a wide range of maternity apparel and accessories including, but not limited to athletic maternity apparel, casual maternity apparel, professional maternity apparel, maternity undergarments, maternity sleep apparel, maternity formal wear, nursing undergarments and nursing apparel.
2. “POUR DEUX” in Petitioner’s mark translates to “FOR TWO” in English and is the dominant portion of Petitioner’s trademark.
3. Petitioner first used the mark and design  in connection with the above-identified goods on or about December 1, 2008.
4. Petitioner’s use of the mark and design  in connection with the above-identified goods has been continuous since on or about December 1, 2008.
5. Petitioner has invested significant sums of money in the promotion of the mark and design  and the Petitioner’s goods in the United States.
6. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in its design  mark and design, and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant’s application to register the mark FOR TWO FITNESS identified more fully in U.S. Registration No 3,921,228.

7. On December 1, 2008, Petitioner filed an application to register its mark and design  used on or in connection with the above referenced goods in International Classes 4, 18, and 25. The application received Trademark Application No. 77/624,212

8. On April 27, 2010 Petitioner's mark and design  registered on the principal register and received Registration No. 3,782,187.

9. Based upon information and belief, Registrant is a U.S. Citizen located and doing business at PH5 4139 Via Marina, Marina Del Rey, California, 90292.

10. Registrant is using the mark FOR TWO FITNESS in connection with maternity athletic clothing in International Class 25.

11. Registrant's registration identified more fully in U.S. Registration No. 3,921,228 was filed with the United States Patent and Trademark Office on April 28, 2010, the day after Applicant's mark registered on the Principal Register.

12. Upon information and belief, Registrant first used the mark FOR TWO FITNESS in connection with the goods covered by its registration in the United States in April of 2010.

13. As such, Petitioner's rights in the mark and design  has priority of use over Registrant's rights in the mark FOR TWO FITNESS, U.S. Registration No. 3,921,228, inasmuch as Petitioner commenced its use of the mark and design  in connection with its goods in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark FOR TWO FITNESS.

14. Petitioner believes that consumers confronted with Registrant's mark FOR TWO FITNESS will inevitably be confused and deceived into the mistaken belief that the Registrant's

goods have their origin or are in some manner connected with the Petitioner and/or Petitioner's

goods offered in connection with its mark and design  .

15. The continued registration of Registrant's mark confers upon Registrant rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in its

mark and design  .

16. By reason of the foregoing, Registrant will be seriously damaged by the continued registration of Registrant's mark FOR TWO FITNESS.

WHEREFORE Petitioner Stara USA, LLC, by counsel, prays that the instant petition be granted and U.S. Registration No. 3,921,228 be cancelled.

Petitioner hereby appoints Matthew H. Swyers, Esquire of The Trademark Company, PLLC, 344 Maple Ave., West, Suite 151, Vienna, Virginia 22180, to act as his attorney for Opposer herein, with full power to prosecute said petition, to transact all relevant business with the United States Patent and Trademark Office, and to receive all official communication in connection with this petition.

Respectfully submitted this 11<sup>th</sup> day of January 2012.

The Trademark Company, PLLC

/Matthew H. Swyers/  
Matthew H. Swyers, Esquire  
344 Maple Avenue West, Suite 151  
Vienna, VA 22180  
Tel. (800) 906-8626 x100  
Fax (270) 477-4574  
mswyers@thetrademarkcompany.com  
Counsel for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,921,228,  
For the mark FOR TWO FITNESS,  
Registered on the Principal Register on February 15, 2011.

Stara USA, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
Majorie Stiegler,	:	
	:	
Registrant.	:	

**Certificate of Service**

I HEREBY CERTIFY that a true and accurate copy of the foregoing *Petition to Cancel* was served this 11<sup>th</sup> day of January, 2012 upon the Registrant via first class mail at the address listed on the TARR database as reported this day as follows:

Stiegler, Marjorie  
PH5 4139 Via Marina  
Marina Del Rey, CA 90292

And to:

Jungjin Lee  
Lee, Lee & Associates, P.C.  
2531 Jackson Ave Ste 234  
Ann Arbor, MI 48103-3818

/Matthew H. Swyers/  
Matthew H. Swyers