

ESTTA Tracking number: **ESTTA453746**

Filing date: **01/30/2012**

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	Regents of the University of California		
Entity	Corporation	Citizenship	California
Address	1111 Franklin Street, 8th Floor Oakland, CA 94607 UNITED STATES		

Attorney information	Nicholas S. Barnhorst, Esq. THE TRADEMARK GROUP 1200 Prospect St., G-100 La Jolla, CA 92037 UNITED STATES nbarnhorst@trademarkgroup.com, ejenkins@trademarkgroup.com, usdocketing@trademarkgroup.com		
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### Registrations Subject to Cancellation

Registration No	3857185	Registration date	10/05/2010
Registrant	Curators of the University of Missouri 227 University Hall Columbia, MO 65211 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 2007/06/30 First Use In Commerce: 2007/06/30  
All goods and services in the class are cancelled, namely: Clothing, namely, shirts

### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3845580	Registration date	09/07/2010
Registrant	Curators of the University of Missouri 227 University Hall Columbia, MO 65211 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 041. First Use: 2007/10/25 First Use In Commerce: 2007/10/25  
All goods and services in the class are cancelled, namely: Education and entertainment services, namely, providing course of instruction at the university level; educational research; arranging and conducting exhibitions, conferences, live performances and festivals

### Grounds for Cancellation

Priority and likelihood of confusion		Trademark Act section 2(d)	
Registration No	3670905	Registration date	08/18/2009
Registrant	Curators of the University of Missouri 227 University Hall Columbia, MO 65211 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 2007/04/10 First Use In Commerce: 2007/06/15 All goods and services in the class are cancelled, namely: Clothing, namely, hats and shirts
Class 041. First Use: 2007/04/10 First Use In Commerce: 2007/06/15 All goods and services in the class are cancelled, namely: Entertainment services, namely, arranging and conducting athletic events and tournaments

### 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. Application No.	77687855	Application Date	03/10/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TRITONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Metal key rings and chains Class 016. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Folders; binders; note books; note pads; note paper and holders therefor; writing paper; envelopes; letter openers and paper knives; message boards in the nature of slate boards for writing; paper weights; paper clip trays; book ends; decals; stickers; bumper stickers; posters; day planners; desk top planners; personal planners; address books; address organizers in the nature of address books and diaries and cases therefor; postcards; greeting cards; photo albums; bookmarks; calendars; money clips; pencils; pens; pen holders; coloring books; newsletters in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations; pamphlets in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations; periodic		

	<p>brochures in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations</p> <p>Class 021. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Beverage glassware; cups; coffee cups; plastic cups; mugs; steins; plastic water bottles sold empty; shot glasses; portable beverage coolers; water bottle insulator, namely, insulated containers and sleeves for water bottles; cork screws; snack bowls</p> <p>Class 025. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Clothing, namely, tops, bottoms, boxer shorts, shirts, t-shirts, polo shirts, sports shirts, tank tops, shorts, sweat pants, sweat shirts, warm up suits, socks, coats, neck ties, headwear, visors, caps</p> <p>Class 041. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Educational services, namely, providing courses of instruction at the undergraduate, graduate university and doctorate levels; continuing education services, namely, providing continuing professional education courses and seminars in the fields of art, sciences, humanities, photography, music, business, economics, education, engineering, defense technology, English language studies, foreign languages, healthcare and behavioral sciences, humanities and writing, information technology and software engineering, law, leadership and management development, life sciences, occupational and environmental safety and health, medicine, nursing, public service and social responsibility, government; educational seminars in the fields of art, sciences, humanities, photography, music, business, economics, education, engineering, defense technology, English language studies, foreign languages, healthcare and behavioral sciences, humanities and writing, information technology and software engineering, law, leadership and management development, life sciences, occupational and environmental safety and health, medicine, nursing, public service and social responsibility, government; arranging and conducting athletic and sporting events and competitions; arranging and conducting visual, literary and performing arts presentations, namely, presentations of live show performances, musical performances, dance and ballet performances, theater productions and live literary readings and lectures</p>
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Attachments	77687855#TMSN.jpeg ( 1 page )( bytes ) 2012-01-30 UCSD TRITONS - UMSL TRITONS Pet for Cancellation.pdf ( 9 pages )(395378 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	/NSB/
Name	Nicholas S. Barnhorst, Esq.
Date	01/30/2012



goods and services in commerce bearing the TRITONS mark in this application is attached as Exhibit A.

3. On information and belief, Curators of the University of Missouri (hereinafter “Registrant”), a corporation organized and existing under the laws of the State of Missouri, have a principal place of business at 227 University Hall, Columbia, Missouri, 65211.

4. Registrant’s application for the UNIVERSITY OF MISSOURI ST. LOUIS TRITONS was filed on June 12, 2007, and for use in connection with “clothing, namely, shirts” in International Class 25, claiming a first use date of June 30, 2007. The mark was registered on October 5, 2010, on the Principal Register under Reg. No. 3,857,185.

5. Registrant’s application for the UMSL TRITONS mark was filed on June 12, 2007, and for use in connection with “education and entertainment services, namely, providing course of instruction at the university level; educational research; arranging and conducting exhibitions, conferences, live performances and festivals” in International Class 41, claiming a first use date of October 25, 2007. The mark was registered on September 7, 2010, on the Principal Register under Reg. No. 3,845,580.

6. Registrant’s application for the TRITONS UMSL mark was filed on June 12, 2007, and for use in connection with “clothing, namely, hats and shirts” in International Class 25, and “entertainment services, namely, arranging and conducting athletic events and tournaments” in International Class 41, claiming a first use date of April 10, 2007. The mark was registered on August 18, 2009, on the Principal Register under Reg. No. 3,670,905.

7. Petitioner’s December 31, 1976 date of first use is more than 30 years prior to the 2007 date of first use for the Registrant’s marks. Petitioner has clear priority of use of the TRITONS mark and has not abandoned it.

8. Petitioner has standing to file this petition because there is a likelihood of damage to Petitioner by continuation of the registration of the challenged marks. Petitioner’s application Serial No. 77/687,855, for the mark TRITONS was filed on March 10, 2009. Petitioner has





## **EXHIBIT A**

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2012-01-24 14:25:45 ET**

**Serial Number: 77687855 Assignment Information      Trademark Document Retrieval**

**Registration Number:(NOT AVAILABLE)**

**Mark**

# TRITONS

**(words only): TRITONS**

**Standard Character claim: Yes**

**Current Status:** A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Date of Status:** 2011-07-29

**Filing Date:** 2009-03-10

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 101

**Attorney Assigned:**  
WEIGLE KATHERINE CONNOLLY

**Current Location:** L1X -TMEG Law Office 101 - Examining Attorney Assigned

**Date In Location:** 2011-07-29

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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## 1. The Regents of the University of California

**Address:**

The Regents of the University of California  
1111 Franklin St., 8th Floor  
Oakland, CA 94607  
United States

**Legal Entity Type:** Corporation**State or Country of Incorporation:** California

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**GOODS AND/OR SERVICES**

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**International Class:** 006**Class Status:** Active

Metal key rings and chains

**Basis:** 1(a)**First Use Date:** 1976-12-31**First Use in Commerce Date:** 1976-12-31**International Class:** 016**Class Status:** Active

Folders; binders; note books; note pads; note paper and holders therefor; writing paper; envelopes; letter openers and paper knives; message boards in the nature of slate boards for writing; paper weights; paper clip trays; book ends; decals; stickers; bumper stickers; posters; day planners; desk top planners; personal planners; address books; address organizers in the nature of address books and diaries and cases therefor; postcards; greeting cards; photo albums; bookmarks; calendars; money clips; pencils; pens; pen holders; coloring books; newsletters in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations; pamphlets in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations; periodic brochures in the field of college life, university activities, academic, educational and athletic programs, visual, literary and performing arts presentations

**Basis:** 1(a)**First Use Date:** 1976-12-31**First Use in Commerce Date:** 1976-12-31**International Class:** 021**Class Status:** Active

Beverage glassware; cups; coffee cups; plastic cups; mugs; steins; plastic water bottles sold empty; shot glasses; portable beverage coolers; water bottle insulator, namely, insulated containers and sleeves for water bottles; cork screws; snack bowls

**Basis:** 1(a)**First Use Date:** 1976-12-31**First Use in Commerce Date:** 1976-12-31**International Class:** 025**Class Status:** Active

Clothing, namely, tops, bottoms, boxer shorts, shirts, t-shirts, polo shirts, sports shirts, tank tops,

shorts, sweat pants, sweat shirts, warm up suits, socks, coats, neck ties, headwear, visors, caps

**Basis:** 1(a)

**First Use Date:** 1976-12-31

**First Use in Commerce Date:** 1976-12-31

**International Class:** 041

**Class Status:** Active

Educational services, namely, providing courses of instruction at the undergraduate, graduate university and doctorate levels; continuing education services, namely, providing continuing professional education courses and seminars in the fields of art, sciences, humanities, photography, music, business, economics, education, engineering, defense technology, English language studies, foreign languages, healthcare and behavioral sciences, humanities and writing, information technology and software engineering, law, leadership and management development, life sciences, occupational and environmental safety and health, medicine, nursing, public service and social responsibility, government; educational seminars in the fields of art, sciences, humanities, photography, music, business, economics, education, engineering, defense technology, English language studies, foreign languages, healthcare and behavioral sciences, humanities and writing, information technology and software engineering, law, leadership and management development, life sciences, occupational and environmental safety and health, medicine, nursing, public service and social responsibility, government; arranging and conducting athletic and sporting events and competitions; arranging and conducting visual, literary and performing arts presentations, namely, presentations of live show performances, musical performances, dance and ballet performances, theater productions and live literary readings and lectures

**Basis:** 1(a)

**First Use Date:** 1976-12-31

**First Use in Commerce Date:** 1976-12-31

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2011-07-29 - Notification Of Non-Final Action E-Mailed

2011-07-29 - NON-FINAL ACTION E-MAILED

2011-07-29 - Non-Final Action Written

2011-07-12 - LIE Checked Susp - To Atty For Action

2011-01-12 - Report Completed Suspension Check Case Still Suspended

2011-01-11 - Assigned To LIE

2010-06-28 - Report Completed Suspension Check Case Still Suspended

2009-12-28 - Notification Of Letter Of Suspension E-Mailed

2009-12-28 - LETTER OF SUSPENSION E-MAILED

2009-12-28 - Suspension Letter Written

2009-12-10 - Teas/Email Correspondence Entered

2009-12-09 - Communication received from applicant

2009-12-09 - TEAS Response to Office Action Received

2009-06-09 - Notification Of Non-Final Action E-Mailed

2009-06-09 - Non-final action e-mailed

2009-06-09 - Non-Final Action Written

2009-06-01 - Assigned To Examiner

2009-03-13 - New Application Office Supplied Data Entered In Tram

2009-03-13 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Marnie Wright Barnhorst, Esq.

**Correspondent**

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