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Filing date: **02/13/2012**

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	PAUL BLAKE JR.		
Entity	Individual	Citizenship	UNITED STATES
Address	c/o Wagner, Vaughan & McLaughlin 601 Bayshore Blvd. , Suite 910 Tampa, FL 33606 UNITED STATES		

Attorney information	David R. Ellis David R. Ellis, Attorney 3233 East Bay Drive Suite 101 Largo, FL 33771 UNITED STATES dellis2@tampabay.rr.com Phone:727 531-1111
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Registration Subject to Cancellation

Registration No	3127012	Registration date	08/08/2006
Registrants	<p>Sampatakakos, John G. 2 Stevens Street Lowell, MA 01851 UNITED STATES</p> <p>Sampatakakos, Anthony G. 2 Stevens Street Lowell, MA 01851 UNITED STATES</p> <p>Surprenant, Helen 73 Vermont Avenue Dracut, MA 01826 UNITED STATES</p> <p>Paicopolos, Claire S. 59 Kilby Street Woburn, MA 01801 UNITED STATES</p> <p>Sampas, James G. 4715 Trent Court Chevy Chase, MD 20815 UNITED STATES</p>		

Goods/Services Subject to Cancellation

Class 035. First Use: 1995/10/03 First Use In Commerce: 1995/10/03
All goods and services in the class are cancelled, namely: Historical figure licensing services

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	Petition to Cancel - JACK KEROUAC.pdf (4 pages)(93884 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	/David R. Ellis/
Name	David R. Ellis
Date	02/13/2012

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

In re JACK KEROUAC)
)
PAUL BLAKE, JR.) Registration No. 3,127,012
)
) Petitioner,)
) Cancellation No. _____
v.)
)
)
JAMES G. SAMPAS,)
)
) et al)
)
) Registrants.)
)
_____)

PETITION TO CANCEL REGISTRATION

PAUL BLAKE, JR., Petitioner, c/o Wagner, Vaughan & McLaughlin, P.A., 601 Bayshore Blvd., Suite 910, Tampa, Florida 33606, believes that he is or will be damaged by the above-identified registration, and hereby petitions to cancel the same. As grounds therefor, Petitioner alleges that:

1. On December 11, 2009, Petitioner filed two intent to use applications with the U.S. Patent and Trademark Office, Serial Nos. 77/891390 and 77/891393, to register the trademarks JACK KEROUAC and KEROUAC, respectively, for a variety of goods and services, which applications have subsequently been amended to limit the identification to clothing and related goods in Class 25.

2. On May 17, 2011, the Trademark Examining Attorney issued Office Actions refusing to register Petitioner's marks

under Trademark Act Section 2(d) on the basis of Registrants' above-captioned registration of JACK KEROUAC for "historical figure licensing services" in Class 35. Among other things, the Examining Attorney stated:

By way of response, the applicant has provided information that it shares rights in the names JACK KEROUAC and KEROUAC with the other parties, including those who own the cited registration. While this argument is apropos to the issue of the section 2(a) refusal, it is neither an appropriate nor persuasive argument as to the section 2(d) refusal. The cited mark is owned by parties other than the applicant. *Applicant's argument that it shares rights in the name with the applicant is in the nature of a collateral attack on the cited registration (e.g. registrant's exclusive right to use the mark in commerce in connection with the recited services) (Emphasis added).*

3. This cancellation petition is intended to meet the Examining Attorney's objection that the Petitioner's responses to the Office Actions were merely collateral attacks, and this is now a direct petition to cancel Registrants' registration. (The Petitioner's two applications were deemed abandoned for failing to respond in a timely matter, but the Petitioner is timely filing Petitions to Revive both applications.)

4. As the Petitioner indicated in his Requests for Reconsideration dated April 15, 2011 in response to the Examining Attorney's Final Office Actions, the Petitioner is the nephew of Jack Kerouac, and court proceedings invalidating the will of Jack Kerouac's mother and sole heir,

Gabrielle Kerouac, as having been forged, confirm that the Petitioner is a co-owner of a share of his property, including the pertinent trademarks and related intellectual property rights, through Jack's mother and sister, who was the applicant's mother. (Relevant documents confirming the Petitioner's claim were submitted with the Petitioner's Request for Reconsideration and are a matter of record).

5. As a result, the Registrants' claim in their application that they had exclusive rights in the JACK KEROUAC mark and that no other person had the right to use the mark in commerce was not true. The registration was thus obtained fraudulently and is subject to cancellation pursuant to Trademark Act Section 14(3).

6. Petitioner believes that Registrants' continuing registration is likely to, and will, result in financial and other injury and damage to Petitioner in his business and prospective business by preventing Petitioner from obtaining a registration for his mark.

WHEREFORE, Petitioner submits this Petition for Cancellation and prays that Registration No. 3,127,012 be cancelled; and for such other and further relief as may be deemed by the Commissioner of Patents and Trademarks to be just and proper.

Dated: February 13, 2012

By /David R. Ellis
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USPTO Reg. No. 52,860

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Petition has been served on Registrant James G. Sampas, 4715 Trent Court, Chevy Chase, MD 20815, and Registrant's attorney, Susan Okin Goldsmith, Duane Morris LLP, 744 Broad Street, Suite 1200, Newark, NJ 07102 by First Class Mail on this date, February 13, 2012

By /David R. Ellis
David R. Ellis