

ESTTA Tracking number: **ESTTA457852**

Filing date: **02/22/2012**

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	Game Sportswear, Ltd.		
Entity	Corporation	Citizenship	New York
Address	1401 Front Street Yorktown Heights, NY 10598 UNITED STATES		

Correspondence information	Thomas A Gallagher Attorney Gallagher Intellectual Property Law 107 Barclay Drive Stamford, CT 06903 UNITED STATES tomgallagher@me.com Phone:203-329-9898
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**Registration Subject to Cancellation**

Registration No	3147217	Registration date	09/26/2006
Registrant	Gamewear Team Sports, Inc. 5400 S. University Drive Suite 104 Davie, FL 33328 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2002/00/00 First Use In Commerce: 2002/00/00 All goods and services in the class are cancelled, namely: football jerseys and pants sold exclusively to sports teams as components of team uniforms
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**Grounds for Cancellation**

False suggestion of a connection	Trademark Act section 2(a)
Abandonment	Trademark Act section 14
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14

**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	2374092	Application Date	05/02/1995
Registration Date	08/08/2000	Foreign Priority Date	NONE

Word Mark	G GAME SPORTSWEAR		
Design Mark	<b>G GAME SPORTSWEAR</b>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/03/01 First Use In Commerce: 1992/03/01 clothing, namely sports jackets and sweatshirts, not sold directly to the retail public where the marks would appear on the goods as a logo or insignia		

U.S. Registration No.	3487044	Application Date	03/10/2007
Registration Date	08/19/2008	Foreign Priority Date	NONE

Word Mark	G GAME SPORTSWEAR		
Design Mark	<b>G GAME SPORTSWEAR</b>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 Clothing, namely, golf shirts, polo shirts, tennis shirts, t shirts, crew shirts, warm-up suits, pullovers, shells, warm-up jackets, warm-up pants, tear-away pants, open bottom pants, fleece sweats, sweatshirts, sweat pants, hooded sweatshirts, wool and leather varsity jackets, wool varsity jackets, wool and polyester varsity jackets, wool and leather corporate jackets, wind and water resistant shirts, jackets and vests, parkas, hunting jackets, workwear jackets with and without hoods, work shirts, zippered turtleneck shirts		

U.S. Application No.	77126502	Application Date	03/09/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GAME		

Design Mark	
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Description of Mark	The mark consists of the word "GAME" in red with a white inside border outlined in blue.
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Goods/Services	Class 025. First use: Clothing, namely, golf shirts, polo shirts, tennis shirts, T-shirts, crew shirts, warm-up suits, pullovers, warm-up jackets, warm-up pants, tear-away pants, open bottom pants, fleece sweats, sweatshirts, sweat pants, hooded sweatshirts, wool and leather varsity jackets, wool varsity jackets, wool and polyester varsity jackets, wool and leather corporate jackets, wind and water resistant shirts, jackets and vests, parkas, hunting jackets, workwear jackets with and without hoods, work shirts, zippered turtleneck shirts
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U.S. Application No.	77126522	Application Date	03/09/2007
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Registration Date	NONE	Foreign Priority Date	NONE
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Word Mark	G.A.M.E.
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Design Mark	
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Description of Mark	The mark consists of the wording "G.A.M.E." in red with a white inside border outlined in blue.
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Goods/Services	Class 025. First use: Clothing, namely, golf shirts, polo shirts, tennis shirts, t shirts, crew shirts, warm-up suits, pullovers, warm-up jackets, warm-up pants, tear-away pants, open bottom pants, fleece sweats, sweatshirts, sweat pants, hooded sweatshirts, wool and leather varsity jackets, wool varsity jackets, wool and polyester varsity jackets, wool and leather corporate jackets, wind and water resistant shirts, jackets and vests, parkas, hunting jackets, workwear jackets with and without hoods, work shirts, zippered turtleneck shirts
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Attachments	74669217#TMSN.gif ( 1 page )( bytes ) 77127667#TMSN.jpeg ( 1 page )( bytes ) 77126502#TMSN.jpeg ( 1 page )( bytes ) 77126522#TMSN.jpeg ( 1 page )( bytes ) Petition-to-Cancel.pdf ( 3 pages )(77142 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	/tag/
Name	Thomas A Gallagher
Date	02/22/2012

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

In the matter of trademark Registration No.: **3147217**

For the mark: G GAMEWEAR TEAM SPORTS

Registered: **September 26, 2006**

Game Sportswear, Ltd.,        )  
    Petitioner                    )  
                                      )  
                  v.                    )  
                                      )  
Gamewear Team Sports,        )  
    Registrant                    )

PETITION TO CANCEL

Petitioner, Game Sportswear, Ltd., is a corporation existing under the laws of the State of New York having an address of 1401 Front Street, Yorktown Heights, NY 10598.

To the best of Petitioner's knowledge, the name and address of the current owner of the registration is Gamewear Team Sports, Inc., is a corporation existing under the laws of the State of Florida having an address of 5400 S. University Drive, Suite 104, Davie, FL 33328.

The above-identified Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner is now and has been for many years engaged in the sale of clothing, namely sports jackets, sweat suits, various athletic wear and sportswear.
2. Petitioner is now and has been using the mark G GAME SPORTSWEAR on such goods since at least as early as 1992.
3. Petitioner is also the owner of U.S. Trademark Registrations number 2,374,092 and number 3,487,044 for the mark G GAME SPORTSWEAR in International Class 25.

4. By virtue of Petitioner's efforts, and the expenditure of considerable time and money for promotional activities, the public has come to recognize G GAME SPORTSWEAR as exclusively indicating Petitioner as a source of such goods.
5. In an effort to naturally expand Petitioner's brand recognition. Petitioner has filed application serial number 77126502 for GAME and Design, being the same design as the specimens submitted in Registrations number 2,374,092 and number 3,487,044 and has filed application serial number 77126522 which is similar to serial number 77126502.
6. The goods listed in the Registrant's registration are similar to and overlap with the goods sold by the Petitioner.
7. Petitioner has recently received mis-directed telephone calls. Actual confusion now exists.
8. Petitioner's first use of the mark G GAME SPORTSWEAR predates Registrant's application date and Registrant's first use of the mark G GAMEWEAR TEAM SPORTS.
9. On information and belief, Registrant is no longer using the mark but has adopted a new mark G GAME WEAR.
10. Based upon the foregoing, Registration No. 3147217 will cause injury and damage to the Petitioner, and cancellation of the registration is requested.

/tag/

By: \_\_\_\_\_  
Thomas A. Gallagher  
Gallagher Intellectual Property Law  
Attorney for Petitioner

107 Barclay Drive  
Stamford, CT 06903

203-329-9898

CERTIFICATE OF SERVICE ON ATTORNEYS FOR REGISTRANT

I hereby certify that a true copy of the above PETITION FOR CANCELTION was served by CERTIFIED MAIL RETURN RECEIPT REQUESTED on FEBRUARY 22, 2012 addressed to:

Donald E. Kubit, Esq.  
Fowler White Burnett P.A.  
1395 Brickell Avenue, 14th Floor  
Miami, Florida 33131

/tag/

By: \_\_\_\_\_  
Thomas A. Gallagher  
Gallagher Intellectual Property Law  
Attorney for Petitioner

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