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Filing date: **05/10/2012**

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	Dylan Kwasniewski IP Holding Co., LLC		
Entity	Limited liability company	Citizenship	Nevada
Address	8817 Bonta Court Las Vegas, NV 89134 UNITED STATES		

Attorney information	Kelley L. Nyquist Brownstein Hyatt Farber Schreck LLP 100 N. City Parkway, Suite 1600 Las Vegas, NV 89106 UNITED STATES lvpto@bhfs.com, jobermeyer@bhfs.com, kgoldberg@bhfs.com Phone:702-382-2101		
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Registration Subject to Cancellation

Registration No	3398561	Registration date	03/18/2008
Registrant	Severe, Emanuel J. 8531 NW 54th Street Lauderhill, FL 33351 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2006/06/12 First Use In Commerce: 2006/06/12 All goods and services in the class are cancelled, namely: Baseball caps; Jackets; Pants; Shirts; Sweaters; T-shirts
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Grounds for Cancellation

Abandonment	Trademark Act section 14
Other	No bona fide use in commerce pursuant to 15 U.S.C. 1127; ornamental use

Attachments	Petition for Cancellation PERSEVERE 3398561.pdf (4 pages)(202017 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	/Kelley L. Nyquist/
Name	Kelley L. Nyquist
Date	05/10/2012

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

DYLAN KWASNIEWSKI IP HOLDING
CO., LLC

Petitioner,

v.

EMANUEL J. SEVERE,
Registrant.

CANCELLATION NO. _____

Registration No.: 3,398,561

Mark: PERSEVERE

International Class: 25

Registration Date: March 18, 2008

To: Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

PETITION FOR CANCELLATION

Dylan Kwasniewski IP Holding Co., LLC ("DK Holdings"), a Nevada limited liability company having its principal place of business at 9125 Eagle Hills Drive, Las Vegas, Nevada, 89134, believes it will be damaged by the continued registration of, and hereby petitions to cancel, U.S. Trademark Registration No. 3,398,561 for the mark PERSEVERE (and Design) in International Class 25 for "Baseball caps; Jackets; Shirts; Sweaters; T-shirts" and hereby petitions to cancel the registration pursuant to 15 U.S.C. § 1064.

As grounds for the cancellation, DK Holdings alleges the following:

A. The Blocking Registration

1. Upon information and belief, and as stated in the records of the United States Patent and Trademark Office ("USPTO"), Emanuel J. Severe ("Severe") is the owner of U.S. Trademark Registration No. 3,398,561 for the mark PERSEVERE (and Design) in International Class 25 for "Baseball caps; Jackets; Shirts; Sweaters; [and] T-shirts" (the "Registered Mark").

2. Upon information and belief, Severe is an individual whose last listed address with the USPTO is 8531 NW 54th Street, Lauderhill, Florida, 33351.

3. Upon information and belief, Severe never made a bona fide use of the Registered Mark in a manner that would support registration under 15 U.S.C. 1052, in that Severe's use of the Registered Mark on clothing was merely ornamental and/or decorative in nature and did not qualify as a trademark within the meaning of 15 U.S.C. 1127.

4. Upon information and belief, Severe never made a bona fide use of the Registered Mark in a manner that would support registration under 15 U.S.C. 1052, in that Severe never made use of the mark in commerce within the meaning of 15 U.S.C. 1127.

5. In the alternative, if Severe made a bona fide use of the Registered Mark in commerce in a manner that supports registration under 15 U.S.C. 1052, upon information and belief, Severe has abandoned the Registered Mark within the meaning of 15 U.S.C. 1127, in that Severe has discontinued use of the Registered Mark with the intent not to resume use.

B. DK Holdings' Trademark Application

5. On July 25, 2011, DK Holdings filed three trademark applications with the USPTO to register PERSEVERE ("Applicant's Mark") pursuant to 15 U.S.C. § 1051(b), namely:

(a) PERSEVERE for "Metal key rings; Metal license plates" in Class 6, for "Video and computer game programs" in Class 9 and for "Jewelry" in Class 14 (Ser. No. 85-379,826) (the "Multi-Class Application");

(b) PERSEVERE for "Entertainment services in the nature of participating in professional automobile races and related exhibitions; Entertainment services in the nature of an on-going reality based television program" in Class 41 (Ser. No. 85-379,796) (the "Class 41 Application"); and

(c) PERSEVERE for "Beachwear; Footwear; Gloves; Headgear, namely hats, caps, and visors; Jackets; Jerseys; Jogging pants; Jogging suits; Pants; Pullovers; Scarves; Shirts; Shoes; Shorts; Socks; Sweatshirts; Swimwear; Tracksuits; Underwear; Warm up suits" in Class 25 (Ser. No. 85-379,839) (the "Class 25 Application").

6. The USPTO issued Notices of Allowance for the Multi-Class Application and the Class 41 Application, but refused the Class 25 Application.

7. Specifically, on November 15, 2011, the USPTO issued an Office Action refusing the Class 25 Application on the basis that Applicant's Mark is confusingly similar the Registered Mark.

8. DK Holdings will be damaged if Severe is permitted to maintain the Blocking Registration. Specifically, DK Holdings will be unable to secure a federal trademark registration for PERSEVERE because its Class 25 Application has been denied by the USPTO based upon a perceived likelihood of confusion with the Registered Mark.

C. Request for Relief

WHEREFORE, DK Holdings prays that the U.S. Trademark Registration No. 3,398,561 be cancelled, and that this Petition for Cancellation be sustained in its favor.

Respectfully submitted,

Dated: May 10, 2012

By: /Kelley L. Nyquist/
Kelley L. Nyquist
Erin E. Lewis
Attorneys for Petitioner
Brownstein Hyatt Farber Schreck, LLP

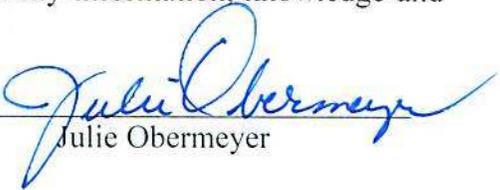
PROOF OF SERVICE

Julie Obermeyer, an employee of Brownstein Hyatt Farber Schreck, LLP, says that on May 10, 2012 she served a copy of this PETITION FOR CANCELLATION upon the following individual by enclosing the same in a First Class postage paid envelope and depositing it in the U.S. mail:

Registrant:

Emanuel J. Severe
8531 NW 54th Street
Lauderhill, Florida 33351

I declare that the statement above is true to the best of my information, knowledge and belief.



Julie Obermeyer