

ESTTA Tracking number: **ESTTA488637**

Filing date: **08/13/2012**

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	Restoration Hardware, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	15 Koch Road Suite J Corte Madera, CA 94925 UNITED STATES		

Correspondence information	Mark A. Steiner Attorney of Record Duane Morris LLP One Market Plaza Spear Tower - Suite 2200 San Francisco, CA 94105-1127 UNITED STATES masteiner@duanemorris.com, lhvanlobensels@duanemorris.com, kxwhite@duanemorris.com Phone:415-957-3000
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Registration Subject to Cancellation

Registration No	3279485	Registration date	08/14/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	Fritz Hansen A/S AllerÅ, dvej 8 DK-3450 AllerÅ, d, DENMARK		

Goods/Services Subject to Cancellation

Class 020. All goods and services in the class are cancelled, namely: chairs

Grounds for Cancellation

The mark comprises matter that, as a whole, is functional	Trademark Act section 2(e)(5)
Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)

Attachments	Petition for Cancellation.pdf (4 pages)(169814 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	/Mark A. Steiner/
Name	Mark A. Steiner
Date	08/13/2012

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

In re Registration No. 3,279,485
Issued: August 14, 2007
For: **Design (Exterior Configuration) of a Chair**
Registrant: Fritz Hansen A/S

Restoration Hardware, Inc.,

Petitioner,

v.

Fritz Hansen A/S,

Registrant.

Cancellation No. _____

PETITION FOR CANCELLATION

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

Madam:

Petitioner, RESTORATION HARDWARE, INC., a corporation, organized under the laws of Delaware, having a business address and situs at 15 Koch Road, Suite J, Corte Madera, California 94925, believes that it is and will be damaged by Registration No. 3,279,485, and pursuant to 37 C.F.R. §2.111 hereby petitions to cancel the same.

As grounds for cancellation, it is alleged:

1. Respondent, Fritz Hansen A/S, a Denmark corporation, Allerodvej 8, DK-3450, Allerod, Denmark, is the owner of record of the above-identified Trademark Registration No. 3,279,485, for the product configuration of a chair issued on the Principal Register on August 14, 2007, for "Chairs," in Class 20.

2. Petitioner is engaged in the sale of chairs. Respondent has asserted Registration No. 3,279,485 against Petitioner alleging that chairs sold by Petitioner infringe the design of a chair that is the subject of that registration.

3. The product configuration that is the subject of Registration No. 3,279,485 is functional and cannot serve as a trademark. The exterior configuration of the design of a chair is, as a whole, functional and should not be registered on the Principal or Supplemental Register. The exterior configuration of the design of a chair is essential to the use or purpose of "Chairs" and affects the cost or quality of the article.

4. The product configuration that is the subject of Registration No. 3,279,485 has not acquired distinctiveness and is not entitled to registration under §2(f) of the Trademark Act. The exterior configuration of the design of a chair consists of a merely descriptive, nondistinctive product design for a chair and does not function as a mark.

5. The product configuration that is the subject of Registration No. 3,279,485 for the exterior configuration of the design of a chair is generic and thus is not entitled to registration as it does not identify a single source.

6. Petitioner is and will be damaged by Registration No. 3,279,485 in that such registration impairs and is inconsistent with Petitioner's right to use its design of a chair for chairs.

WHEREFORE, Petitioner hereby respectfully requests that Registration No. 3,279,485 be canceled.

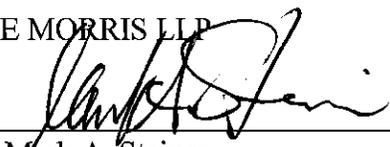
Please charge the \$300.00 fee for this Petition to the Deposit Account of Duane Morris LLP, 041679, and charge any additional fees which may be required, or credit any overpayment to such deposit account.

Please direct all future communications in this proceeding to the undersigned.

Respectfully submitted,

DUANE MORRIS LLP

Dated: August 13, 2012

By: 

Mark A. Steiner

Laurie H. van Loben Sels

Attorneys for Petitioner

Restoration Hardware, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2012, I caused the foregoing **PETITION FOR CANCELLATION** to be served on Respondent, by depositing same in the United States mail, in an envelopes with postage prepaid, addressed to:

FRITZ HANSEN A/S
Allerodvej 8
DK-3450
Allerod, Denmark

and

Emily R. Brown , Esq.
King & Spaulding LLP
1185 Avenue of the Americas
New York, NY 10036



Kim White