

ESTTA Tracking number: **ESTTA496015**

Filing date: **09/24/2012**

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	JB Line, Inc.		
Entity	Corporation	Citizenship	California
Address	Suite 104, 1709 Rimpau Avenue Corona, CA 92881 UNITED STATES		

Attorney information	Clifford D. Hyra Symbus Law Group, LLC 11710 Plaza America Drive Reston, VA 20190 UNITED STATES chyra@symbus.com Phone:866-913-3499		
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Registration Subject to Cancellation

Registration No	3771764	Registration date	04/06/2010
International Registration No.	NONE	International Registration Date	NONE
Registrant	Mrs Polyxeni BALATSINO 19 Markou Renieri street GR-152 37 Philothei GREECE		

Goods/Services Subject to Cancellation

Class 003. All goods and services in the class are cancelled, namely: soaps; perfumes, essential oils, cosmetics, hair lotions

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85080876	Application Date	07/08/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JB JB COSMETICS		

Design Mark			
Description of Mark	The mark consists of stylized letters "J" and "B" within a circular design in pink color, and the wording "JB Cosmetics" in dark grey color.		
Goods/Services	Class 003. First use: First Use: 2008/06/01 First Use In Commerce: 2009/01/01 Cosmetics		

U.S. Registration No.	3966489	Application Date	12/08/2010
Registration Date	05/24/2011	Foreign Priority Date	NONE

Word Mark	JB LASHES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2008/06/01 First Use In Commerce: 2009/01/01 Artificial eyelash extensions and adhesives for affixing artificial eyelash extensions		

U.S. Application No.	77436245	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	JB JANE BEAUTY		
Design Mark			
Description of Mark	The mark consists of stylized letters "J" and "B" within a circular design, and the wordings "JANE" and "BEAUTY" surrounds the circular design.		
Goods/Services	Class 003. First use: First Use: 2005/04/07 First Use In Commerce: 2005/04/07		

	Cosmetics, namely, artificial eyelashes and artificial eyelash kits comprised primarily of eyelashes, eyelash adhesive, eyelash applicators and instructional DVDs in a container
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Attachments	85080876#TMSN.jpeg (1 page)(bytes) 85193046#TMSN.jpeg (1 page)(bytes) 77436245#TMSN.jpeg (1 page)(bytes) Pet.Can. 20120924 JB & Design.pdf (5 pages)(75392 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	/Cliff Hyra/
Name	Clifford D. Hyra
Date	09/24/2012

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

JB Line, Inc.)	
)	
Petitioner,)	Cancellation No.: _____
)	Reg. No.: <u>3,771,764</u>
v.)	
)	
Ms. Polyxeni Balatsinou)	
)	
Registrant)	
)	

PETITION FOR CANCELLATION

JB Line, Inc, a corporation organized under the laws of California and having a mailing address of Suite 104, 1709 Rimpau Avenue, Corona, CA 92881 (“Petitioner”), hereby petitions for cancellation of the following registration owned, according to the records of the U.S. Patent and Trademark Office, by Ms. Polyxeni Balatsinou, a Greek citizen having an address of 19 Markou Renieri street, GR-152, 37 Philothei, Greece (“Registrant”) and referred to herein as “Registrant's Mark”:

- Reg. No. 3,771,764 – JB & Design for “soaps; perfumes, essential oils, cosmetics, hair lotions,” in International Class 3 and “Illuminants, namely, aromatic candles; candles and wicks for candles for lighting,” in International Class 4 (hereinafter, “Registrant's Goods”), filed February 13, 2009 and registered April 6, 2010 on the basis of

international registration 0999257 under § 66A.

Petitioner has been and will continue to be damaged by the continued registration of Registrant's Mark and hereby petitions to cancel the same on the following grounds:

1. Petitioner is the owner of the following abandoned trademark application in the U.S. Patent and Trademark Office (“Petitioner's Mark”):

App. Ser. No. 85/080,876 – JB JB COSMETICS (Stylized) for “Cosmetics,” (hereinafter, “Petitioner's Goods”) in International Class 3, filed July 8, 2010 and claiming first use in commerce at least as early as January 1, 2009.

2. Petitioner's Mark was refused registration by the U.S. Patent and Trademark Office under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground of confusing similarity to Registrant's Mark.

3. Petitioner's first use date of January 1, 2009 is prior to the February 13, 2009 filing date of Registrant's Mark, which does not claim priority to any previous application. Petitioner therefore has priority in Petitioner's Mark for cosmetics prior to any date which may be claimed by Registrant.

4. The goods of Registrant and Petitioner are overlapping and generally related, and Registrant's use of Registrant's Mark in connection with Registrant's Goods is without the consent or permission of Petitioner.

5. On information and belief, Registrant distributes and sells Registrant's Goods through the same channels of trade as Petitioner, and directs its respective goods to the same ultimate consumer as Petitioner.

6. On information and belief, Registrant has never used Registrant's Mark in

commerce in the U.S.

7. On information and belief, Registrant has no plans to begin use of Registrant's Mark in commerce in the U.S. in the future.

8. The Registrant's Mark and Petitioner's Mark are confusingly similar when applied to the goods of the parties.

9. Since Petitioner owns Petitioner's Mark by virtue of prior use, mistake or deception as to the source of origin of the goods will arise and will injure and damage Petitioner and its goodwill.

10. Continued registration of Registrant's Mark to Registrant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Registrant's Goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Petitioner, all to Petitioner's irreparable damage.

11. Petitioner intends to renew its application to register Petitioner's Mark with the United States Patent and Trademark Office, and expects that Registrant's Mark will again be cited as a basis for refusing registration of Petitioner's Mark, thereby harming Petitioner.

12. On information and belief, the continued existence of Registrant's Mark damages Petitioner, as the registration confers upon Registrant various statutory presumptions to which it is not entitled in view of Registrant's abandonment and insufficient rights in the Registrant's mark.

WHEREFORE, Petitioner prays that Registrant's Mark, Registration No. 3,771,764 for JB & Design, be canceled and this Petition for Cancellation be sustained.

This Petition for Cancellation is being filed by the undersigned attorneys at law, duly authorized to represent Petitioner in this proceeding, pursuant to Trademark Rule 2.111(b).

RESPECTFULLY SUBMITTED

JB Line, Inc.

Dated: September 24, 2012

By: /Clifford Hyra/
Clifford D. Hyra, Esq.
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Washington, DC 20006

Attorneys for Petitioner
JB Line, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing PETITION FOR CANCELLATION has been served on the Registrant, by depositing copies thereof in the United States Mail on September 24, 2012, First Class Mail, postage prepaid in envelopes addressed as follows:

Ms. Polyxeni Balatsinou
19 Markou Renieri street
GR-152 37 Philothei
Greece

Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436


Clifford D. Hyra