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Filing date: **12/13/2012**

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	Larry G. Keast		
Entity	Individual	Citizenship	UNITED STATES
Address	6901 Alabonson Road Houston, TX 77088 UNITED STATES		

Attorney information	Wendy Buskop Buskop Law Group, PC 4511 Dacoma St. Houston, TX 77092 UNITED STATES pat.obrien@buskoplaw.com Phone:7132753400		
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### Registration Subject to Cancellation

Registration No	3633351	Registration date	06/02/2009
Registrant	Airlift Systems International, Inc. 5217 Columbus Ave. Anderson, IN 46013 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 037. First Use: 2001/07/15 First Use In Commerce: 2001/07/15 All goods and services in the class are cancelled, namely: Oil pumping and extraction
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Related Proceedings	Petitioner has filed an Intent to Use application for the same mark; Application Serial Number: 85/634,398
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Attachments	Petition to Cancel as Filed 12.13.2012.pdf ( 3 pages )(101008 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	/WBUSKOP/
Name	Wendy Buskop

Date	12/13/2012
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Larry G. Keast,

Petitioner,

- against -

Airlift Systems International, Inc.,

Respondent.

Cancellation No. \_\_\_\_\_

Registration No. 3,633,351

PETITION FOR CANCELLATION

Larry G. Keast ("Petitioner"), an individual with a principal place of business in Houston, Texas, believes that it is, or will be damaged by Registration No. 3,633,351 for "AIRLIFT" granted to Respondent, Airlift Systems International, Inc., an Indiana Corporation with an address at 5217 Columbus Ave., Anderson, Indiana 46013, and therefore files this petition for cancellation of that registration in its entirety.

The grounds for this petition are as follows:

1. The grounds are Respondent has obtained a US trademark registration AIRLIFT for "oil pumping and extraction" alleging a first use in commerce of July 15, 2001, granted June 02, 2009, Registration Number 3,633,351. This now registered mark is identical to Petitioner's applied-for mark for substantially the same channel-of-trade.

NON-USE/ABANDONMENT OF MARK BY CURRENT REGISTRANT

2. Petitioner does not dispute that the applied for mark would cause a likelihood of confusion to an ordinary consumer, as the applied for mark is the same as the existing registration, and is in the same channel of trade as the existing registration. However, through some research, the Petitioner has come to the determination that the mark is no longer being used by the current Registrant.

3. Petitioner has discovered evidence that the entity listed as the owner of

the registered mark no longer exists, having gone inactive on 08/07/2007.

4. Petitioner has discovered further evidence that the entity listed as the owner of the registered mark has merged their corporate form with another entity, NOJAK Pumping Solutions, as of 04/10/2008.

5. Petitioner, when researching the website of NOJAK Pumping Solutions, discovered a webpage that states:

“Many of you know us by our former company name, Airlift Services. With the success of our NOJAK Pumping Systems, we have decided to change our name. We’re the same dedicated people with the same powerful solutions. Just from now on, call us NOJAK.”

6. In view of the similarity of the respective marks and the substantial similarity of the goods that so resembles petitioner’s mark, that a likelihood of confusion will be caused with any possible use of Respondent’s mark.

7. Upon investigation and information, Respondent has made no use of the purported mark on any of the goods identified in its application since the time the entities have merged into NOJAK Pumping Solutions. Thus the registration is void on the basis of nonuse of the mark.

8. In any event, the continued existence of such a registration casts a cloud upon Petitioner’s ability to apply for and secure rights in this mark. As such Respondent’s registration is a source of damage and injury to Petitioner.

9. Respondent registration must be cancelled based upon:

- i) Respondent’s apparent complete lack of use of the mark;
- ii) Evidence discovered showing a merger between Respondent’s entity and another;
- iii) Language found on the website of NOJAK Pumping Solutions, indicating that the mark is no longer being used; and
- iv) Respondent’s possession and nonuse of the mark acts as a complete bar to Petitioner’s desire to secure and eventually use the mark.

WHEREFORE, Petitioner requests cancellation of registration 3,633,351.

Respectfully submitted,



12/13/2012

Date

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