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January 25, 2013

Trademark Trial and Appeal Board  
U. S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

# 79032013

Re: Petition to Cancel  
Trademark: LA PERLA INTERNATIONAL LIVING  
Registrant: LPIL Cooperatief U.A.  
Registration No.: 3,458,200  
Attorney Docket No.: 066156.0003

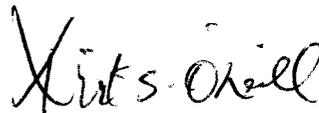
Dear Madam:

Enclosed please find the following documents for filing:

- Petition to Cancel; and
- A return receipt acknowledgment postcard.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment in the fees indicated above to Deposit Account No. 01-0477.

Respectfully submitted,



Kirt S. O'Neill

Enclosures

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

In the Matter of Trademark Registration Nos. 3,458,200  
For the mark LA PERLA INTERNATIONAL LIVING  
Date Registered: July 1, 2008

RIO PERLA PROPERTIES, L.P.  
Petitioner

v.

LPIL COOPERATIEF U. A.  
Registrant

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

01/30/2013 SWILSON1 00000001 010477 3458200

01 FC:6401 300.00 DA

01/30/2013 SWILSON1 00000018 010477 3458200

PETITION TO CANCEL

01 FC:6401

300.00 DA

Petitioner Rio Perla Properties, L.P. ("Rio Perla") is a Texas limited partnership with a principal place of business at 200 E. Grayson Street #210, San Antonio, Texas, 78215, and seeks to cancel Registration No. 3,458,200 for the mark LA PERLA INTERNATIONAL LIVING in International Class Nos. 041 and 043. Rio Perla believes that it and its parent, subsidiaries, and affiliates will be damaged by the above-identified registrations, and hereby petitions for this registration to be cancelled.

As grounds for this petition, Rio Perla alleges:

1. Rio Perla is a corporation organized and existing under the laws of the State of Texas, with its principal place of business in San Antonio, Texas.
2. LPIL Cooperatief U.A. ("Registrant") is the current owner of U.S. Registration No. 3,458,200 for the mark "LA PERLA INTERNATIONAL LIVING."
3. To the best of Rio Perla's knowledge, the last-known address for the current owner of the two registrations is as follows:



\*01-29-2013\*

LPIL Cooperatief U.A.,  
Soestdijkerweg 17  
3743 MG Den Dolder  
Netherlands

4. In July of 2008, both LA PERLA INTERNATIONAL LIVING marks were registered under § 66(a) of the Lanham Act, 15 U.S.C. § 1141(f), which extends the protection of an international registration to the United States. It was registered in connection with, among other things, hotel services (International Class 043) and educational workshop or seminar services (International Class 041).

5. When a mark is registered in the United States on the basis of a foreign counterpart registration, a mark may be cancelled for abandonment where there is nonuse coupled with a lack of intent to commence use in the United States. *Rivard v. Linville*, 133 F.3d 1446, 1448-49 (Fed. Cir. 1998). Where there is non-use for a period of three years, there is a rebuttable presumption that the registrant abandoned the mark without intent to commence use. 15 U.S.C. § 1127 (“A mark shall be deemed to be abandoned...when its use has been discontinued with intent not to resume such use...Nonuse for 3 consecutive years shall be prima facie evidence of abandonment.”); *Rivard v. Linville*, 133 F.3d at 1449; *Imperial Tobacco Ltd. v. Philip Morris, Inc.*, 899 F.2d 1575, 1579 (Fed. Cir. 1990).

6. Registrant has abandoned its rights to LA PERLA INTERNATIONAL LIVING. On information and belief, Registrant does not appear to have ever used that mark in the United States. Because it has been more than three years since the mark was registered, the mark is presumptively abandoned and should be cancelled.

7. Rio Perla, upon information and belief, will be damaged by maintaining LA PERLA INTERNATIONAL LIVING on the Register. Rio Perla, by and through its parent, subsidiaries, affiliates, and sub-licensees, operates a multi-use real estate development under a license to the

mark PEARL (U.S. Registration Nos. 1,550,437 and 1,558,336). Rio Perla intends to expand the multi-use development to include a hotel with conference/seminar space and to use the PEARL mark in conjunction with that hotel, as authorized by Rio Perla's license agreement with the licensor. Maintaining the LA PERLA INTERNATIONAL LIVING mark on the Register will interfere with the ability of Rio Perla, by and through its parent, subsidiaries, affiliates, and/or sub-licensees, to fully enjoy the benefits of the licensed PEARL mark.

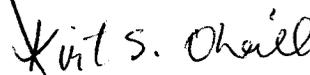
WHEREFORE, Rio Perla prays that this Petition for Cancellation be granted, and that Registration No. 3,458,200 be cancelled with regard to International Class 041 and 043.

The Commissioner is hereby authorized to withdraw \$600.00 from Deposit Account No. 01-0477 for the filing fees required by 37 C.F.R. § 2.6(a)(16).

The Commissioner is authorized to charge any additional expenses or deposit any overpayment to Deposit Account No. 01-0477.

Date: Jan. 25, 2013

Respectfully submitted,



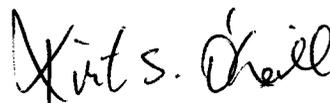
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CERTIFICATE OF SERVICE

I hereby certify that Petitioner's PETITION TO CANCEL has been served on January 25, 2013, via United States Postal Service, Express Mail, on the following:

LPIL Cooperatief U.A.,  
Soestdijkerweg 17  
3743 MG Den Dolder  
Netherlands



Kirt S. O'Neill

**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Trademark Trial and Appeal Board, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451.

Name of Person Signing Certificate: Melanie Langford

Signature: 

Date of Mailing: 