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

KATHMANDU LIMITED, ]  
 ]  
 Petitioner, ]  
 ]  
 v. ]  
 ]  
 GREGORY MOUNTAIN PRODUCTS, LLC ]  
 ]  
 Registrant. ]

Cancellation No.  
Reg. No. 1,308,023

#73370763

**PETITION FOR CANCELLATION**

Petitioner, Kathmandu Limited, by and through its attorneys noted herein, hereby petitions this Honorable Board to order the cancellation of United States Trademark Registration, No. 1,308,023, registered December 4, 1984 and according to the assignment records of the United States Patent and Trademark Office now owned by Gregory Mountain Products, LLC, a Delaware limited liability company.

The registration here sought to be cancelled covers the mark shown below as applied to camping equipment, namely backpacks and backpack pockets in Class 18.



\*03-05-2013\*

Petitioner believes that it will be damaged by the existence on the register of this mark in Class 18 for the reasons as set forth below and therefore seeks relief by cancellation.

1. Petitioner, Kathmandu Limited, is a New Zealand company and has its principal business located at 11 Mary Muller Drive, Hillsborough, Christchurch, 8022 New Zealand.

2. The Registration here sought to be canceled issued on December 4, 18984 and was renewed in 2004.

3. Petitioner has for over twenty-five years produced, marketed and distributed a wide variety of outdoor and camping goods including clothing, footwear, packs, bags, wallets, camping gear, sleeping gear, furniture, and accessories and has operated retail establishments in several countries selling the aforesaid goods all marketed under the house brand name and trademark **KATHMANDU** and associated with the design as shown here.



4. The trademark **KATHMANDU** and its associated design was adopted by Petitioner as a trademark and service mark for its goods and services as set forth in paragraph 3 and petitioner has actually used this mark on such goods and others in Classes 14, 18, 20, 21, 22, 24, 25 and 35 in New Zealand and elsewhere since at least as early as 2010.

5. Petitioner filed an application for registration of **KATHMANDU and Design** in the United States Patent and Trademark Office on November 30, 2011, serial number 85/483,269 which application covers a wide variety of articles and services in the classes noted in paragraph 4 *supra*. The application was based upon a bona-fide intent to use the mark in commerce.

6. Petitioner filed an additional application for the **Design** mark shown at the bottom of page 2, herein in the United States Patent and Trademark Office on November 30, 2011, serial number 85/483,266 which application covers a wide variety of articles and services in the classes noted in paragraph 4 *supra*. The application was based upon a New Zealand Registration No. 835118 of December 20, 2010

7. The applications identified in paragraphs 5 and 6 have been finally refused registration under Section 2(d) of the Trademark Act based upon a perceived likelihood of confusion with the design mark here sought to be cancelled, Registration No. 1,308,023.

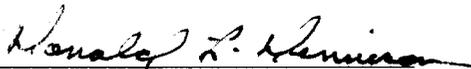
8. The marks of the Registrant and the Petitioner are similar or identical and the United States Patent and Trademark Office Examining Attorney has made a determination that the marks are sufficiently similar so as to cause possible confusion in the minds of the purchasers as to the source of the goods.

9.. Upon information and belief, and after a thorough investigation through trade sources and elsewhere, registrant has made no use of its mark in connection with its goods for at least the last three years has accordingly abandoned any trademark rights it may have had. Such prior use has been discontinued without any intent to resume such use and accordingly it must be presumed that the mark has been abandoned. See 15 USC §1127.

**WHEREFORE**, Petitioner respectfully moves the Trademark Trial and Appeal Board to cancel the registration of the Registrant, No. 1,308,023

Payment in the amount of \$300 by Deposit Account No. 120425 is authorized by the undersigned.

Respectfully submitted,  
Kathmandu Limited

By: 

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March 5, 2013

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the Petition for Cancellation to which this certificate is attached was served on the correspondent for the registrant as shown in the official records of the United States Patent and Trademark Office, Brendan Mcfeely, c/o Kane Kessler, PC, 26<sup>th</sup> Floor, 1350 Avenue of the Americas, New York, NY 10019 by United States mail with proper postage affixed this fifth day of March 2013.



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Donald L. Dennison