

ESTTA Tracking number: **ESTTA526870**

Filing date: **03/14/2013**

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	Back Beat, Inc.		
Entity	Corporation	Citizenship	California
Address	901 West 9th St., #606 Austin, TX 78703 UNITED STATES		

Attorney information	Michael J. MacDermott Christie, Parker & Hale, LLP P.O. Box 29001 Glendale, CA 91209-9001 UNITED STATES pto@cph.com
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Registration Subject to Cancellation

Registration No	3572181	Registration date	02/10/2009
Registrant	2162217 ONTARIO LIMITED RR#1 Windham Centre, Ontario, N0E2A0 CANADA		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/04/00 First Use In Commerce: 2008/06/28 All goods and services in the class are cancelled, namely: Clothing, namely, jackets, dresses, skirts, shorts, pants, shirts, and T-shirts
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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. Registration No.	3590925	Application Date	08/08/2008
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	SUGAR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 FOOTWEAR

U.S. Registration No.	3587017	Application Date	08/19/2008
Registration Date	03/10/2009	Foreign Priority Date	NONE
Word Mark	SUGAR		
Design Mark			
Description of Mark	The mark consists of the term "SUGAR" in stylized form.		
Goods/Services	Class 025. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 FOOTWEAR		

U.S. Registration No.	4125695	Application Date	01/15/2008
Registration Date	04/10/2012	Foreign Priority Date	NONE
Word Mark	SUGAR		

Design Mark	
Description of Mark	The mark consists of a stylized representation of the term "SUGAR" positioned beneath the design of a visage of a winking girl wearing a necklace.
Goods/Services	Class 025. First use: First Use: 2012/01/00 First Use In Commerce: 2012/01/00 PANTS, JEANS, T-SHIRTS AND SWEATSHIRTS

Attachments	77543042#TMSN.jpeg (1 page)(bytes) 77550894#TMSN.jpeg (1 page)(bytes) 77372471#TMSN.jpeg (1 page)(bytes) Petition for Cancellation.pdf (11 pages)(144219 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	/Michael J. MacDermott/
Name	Michael J. MacDermott
Date	03/14/2013

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

In the matter of Trademark Registration No. 3,572,181
for the Mark SUGAR WEAR
Date registered February 10, 2009

Back Beat, Inc. <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">v.</p> 2162217 Ontario Limited dba Sugar Wear Corporation <p style="text-align: right;">Respondent.</p>

Cancellation No.

PETITION FOR CANCELLATION

Petitioner Back Beat, Inc., a California corporation, whose address is 901 West 9th St., #606, Austin, Texas 78703 (hereinafter referred to as "Petitioner"), believes that it is being damaged by Registration No. 3,572,181 and hereby petitions to cancellation of same.

The grounds for cancellation are as follows:

1. Petitioner and its related companies are engaged in the fashion business, including the distribution and sale of apparel including footwear.

2. Since long prior to Respondent's priority date, Petitioner and/or its related companies has continuously and extensively used in commerce the trademark SUGAR, alone and in combination with designs, ("the Sugar Marks") in connection with the sale of fashion products, including pants, jeans, t-shirts, sweatshirts, and footwear.

3. Petitioner is the owner of Registration No. 3,590,925 of the mark SUGAR issued March 17, 2009 on the Principal Register for footwear in International Class 25. Said registration is valid and subsiding. Attached as Exhibit 1, and made of record herein, is a current

Docket No. 110.2*46/B844

printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of Registration No. 3,590,925.

4. Petitioner is the owner of Registration No. 3,587,017 of the mark SUGAR (Stylized) issued March 10, 2009 on the Principal Register for footwear in International Class 25. Said registration is valid and subsiding. Attached as Exhibit 2, and made of record herein, is a current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of Registration No. 3,587,017.

5. Petitioner is the owner of Registration No. 4,125,695 of the mark SUGAR and Design issued April 12, 2012 on the Principal Register for pants, jeans, t-shirts and sweatshirts in International Class 25. Said registration is valid and subsiding. Attached as Exhibit 3, and made of record herein, is a current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of Registration No. 4,125,695.

6. Through the widespread use and advertising of its SUGAR Marks over a long period of time and by virtue of the quality of the goods sold in connection with the marks, Petitioner has built up a valuable goodwill and reputation in connection with said mark which would be jeopardized by Respondent's use and continued registration of the mark SUGAR WEAR in International Class 25.

7. Respondent's goods for which it has registered the mark SUGAR WEAR in International Class 25 are clothing, namely jackets, dresses, skirts, shorts, pants, shirts, and T-shirts, which are identical or closely related in nature to the goods of Petitioner under its SUGAR Marks.

8. Respondent's mark SUGAR WEAR so resembles Petitioner's SUGAR Marks previously used in commerce and registered by Petitioner and not abandoned, as to be likely when applied to the goods of Respondent to cause confusion, or to cause mistake or to deceive.

9. Petitioner is informed and believes that Respondent has not made use of the mark SUGAR WEAR in commerce for clothing, namely jackets, dresses, skirts, shorts, pants, shirts, and t-shirts in Registration No. 3,572,181.

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10. Petitioner is informed and believes that Respondent discontinued its use of the mark SUGAR WEAR in commerce at least three years prior to the filing date of this petition, thereby creating a presumption of abandonment of the mark by Respondent.

11. Petitioner is informed and believes that Respondent discontinued the use of the mark SUGAR WEAR in commerce in relation to clothing, namely, jackets, dresses, skirts, shorts, pants, shirts and t-shirts and that Respondent discontinued such use without the intention of resuming the same.

12. Petitioner is informed and believes that Respondent has abandoned the mark SUGAR WEAR of Registration No. 3,572,181.

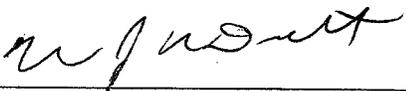
13. Petitioner would be damaged by the continued registration by Respondent of the mark SUGAR WEAR for the goods set forth in Registration No. 3,572,181.

WHEREFORE, Petitioner prays that this petition for cancellation be sustained and that Registration No. 3,572,181 be cancelled.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date March ¹⁴~~15~~, 2013

By 

Michael J. MacDermott
Attorneys for Petitioner
P.O. Box 29001
Glendale, California 91209-9001
626/795-9900

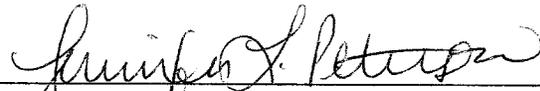
MM/jlp

Docket No. 110.2*46/B844

CERTIFICATE OF SERVICE

It is further certified that on March 14, 2013 the foregoing **PETITION FOR CANCELLATION** is being served by mailing a copy thereof by first-class mail addressed to:

2162217 Ontario Limited, dba Sugar Wear
Canada RR#1 Windham Centre
Ontario, Canada N0E2A0



Jennifer L. Peterson
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068
(626) 795-9900

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EXHIBIT 1



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SUGAR

Word Mark	SUGAR
Goods and Services	IC 025. US 022 039. G & S: FOOTWEAR. FIRST USE: 19970000. FIRST USE IN COMMERCE: 19970000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77543042
Filing Date	August 8, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 30, 2008
Registration Number	3590925
Registration Date	March 17, 2009
Owner	(REGISTRANT) Back Beat, Inc. CORPORATION CALIFORNIA 901 West 9th St, #606 Austin TEXAS 78703
Attorney of Record	Michael J. MacDermott
Prior Registrations	2215255
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Word Mark	SUGAR
Goods and Services	IC 025. US 022 039. G & S: FOOTWEAR. FIRST USE: 20000000. FIRST USE IN COMMERCE: 20000000
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	77550894
Filing Date	August 19, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 23, 2008
Registration Number	3587017
Registration Date	March 10, 2009
Owner	(REGISTRANT) Back Beat, Inc. CORPORATION CALIFORNIA 901 West 9th St, #606 Austin TEXAS 78703
Attorney of Record	Michael J. MacDermott
Prior Registrations	2215255
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the term "SUGAR" in stylized form.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

EXHIBIT 3



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Word Mark SUGAR
Goods and Services IC 025. US 022 039. G & S: PANTS, JEANS, T-SHIRTS AND SWEATSHIRTS. FIRST USE: 20120100. FIRST USE IN COMMERCE: 20120100
Mark
Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design 02.05.01 - Busts of children; Children, heads, portraiture, busts; Heads of children
Search Code 02.05.04 - Children, girl(s); Girls
 02.05.24 - Stylized children, including children depicted in caricature form
Serial Number 77372471
Filing Date January 15, 2008
Current Basis 1A
Original Filing Basis 1B
Published for Opposition May 20, 2008
Registration Number 4125695
Registration Date April 10, 2012
Owner (REGISTRANT) Back Beat, Inc. CORPORATION CALIFORNIA 901 West 9th St., #606 Austin TEXAS 78703

Attorney of Record Michael J. MacDermott

Prior Registrations 2256563;2867283

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a stylized representation of the term "SUGAR" positioned beneath the design of a visage of a winking girl wearing a necklace.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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