

ESTTA Tracking number: **ESTTA544814**

Filing date: **06/24/2013**

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	William Jones		
Entity	Individual	Citizenship	UNITED STATES
Address	500 South Van Ness Avenue Los Angeles, CA 90020 UNITED STATES		

Attorney information	Michael L. Sloan Law Office of Michael L. Sloan 701 N. Brand Blvd., Suite 840 Glendale, CA 91203 UNITED STATES sloanlegalconsulting@earthlink.net Phone:626.797.8235		
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Registration Subject to Cancellation

Registration No	4278610	Registration date	01/22/2013
Registrant	Nahum, Ellie 14935 Addison Street Sherman Oaks, CA 91403 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2010/01/24 First Use In Commerce: 2012/01/24 All goods and services in the class are cancelled, namely: Hats; Jeans; Sweat shirts; T-shirts
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	(1)There was no bona fide use of registrant's mark in commerce prior to the filing of the use-based application for its registration under Trademark Act Section 1(a). International Mobile Machines Corp. v. International Telephone and Telegraph Corp., 800 F2d 1118, 231 USPQ 142 (Fed. Cir. 1986); (2) Registrant has used his mark so as to misrepresent the source of his goods. Ballet Tech Foundation, Inc. v. The Joyce Theater Foundation, Inc., 89 USPQ2d 1262

	(TTAB 2008).
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The mark consists of the stylized word "TRAP". The word "TRAP" is inside an outline of a house.		
Goods/Services	Class 025. First Use: 2010/01/24 First Use In Commerce: 2012/01/24 Hats; Jeans; Sweat shirts; T-shirts		

Attachments	Trap House - Petition to Cancel Trademark.pdf(122909 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 Overnight Courier on this date.

Signature	/Michael L. Sloan/
Name	Michael L. Sloan
Date	06/24/2013

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

In the matter of trademark Registration No. 4,278,610
For the mark: TRAP
Date registered: January 22, 2013

WILLIAM JONES,)	Cancellation No.
)	
Petitioner,)	
vs.)	
)	
ELLIE NAHUM,)	
)	
Registrant.)	
_____)	

PETITION FOR CANCELLATION

William Jones ("petitioner"), having his principal place of business at 500 South Van Ness Avenue, Los Angeles, California 90020, has been and believes that he will be damaged by the continued registration of the mark shown in United States Trademark Registration No. 4,278,610 and hereby seeks cancellation of this registration under 15 U.S.C. § 1064(3).

As grounds for this cancellation, petitioner alleges:

1. Ellie Nahum ("registrant") is the listed owner of United States Trademark Registration No. 4,278,610 for the word mark TRAP, with his principal place of business located at 14935 Addison Street, Sherman Oaks, California 91403.

2. On information and belief, registrant filed an application to register the word mark TRAP as under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), on April 9, 2012. Based on this application, registrant obtained U.S. Registration No. 4,278,610 ("Registration"), which issued on January 22, 2013, for the word mark TRAP used on clothing, footwear, and headgear in

International Class 25; in cordage and fibers in U.S. Class 22; and, transportation and storage in U.S. Class 39.

3. Since, at least, as early as June of 2011, petitioner has been using the logo TRAP itself as a trademark ("Mark"), which he created in March of 2011. Petitioner's Mark is identical to the mark which is the subject of the Registration which was not created by respondent.

4. Petitioner has used his Mark since as early as June of 2011, in association with clothing, footwear, and headgear ("Goods").

5. Petitioner began using his Mark on his Goods in commerce at least as early as June of 2011. The Registration states a first use in commerce date of January 24, 2012. The first use date of January 24, 2010, is false because the Mark was not created until March of 2011.

First Ground for Cancellation - Priority of Use and Likelihood of Confusion

6. Petitioner incorporates by reference paragraphs 1 through 5 as if fully stated here.

7. Since prior to the filing date in the Registration, petitioner has been using his Mark in connection with his Goods.

8. Since prior to the claimed priority date in the Registration, petitioner has been using his Mark in connection with his Goods.

9. Petitioner has priority of use because he has been using the Mark in commerce since at least June of 2011.

10. The goods listed in the Registration are either identical or closely related to petitioner's Goods; i.e., clothing, footwear, and headgear. This includes, but is not limited to, hats, jeans, sweat shirts, and t-shirts.

11. The subject mark of the Registration so resembles petitioner's Mark as to be likely to cause confusion, or to cause mistake, or to deceive when used in connection with the goods listed in the Registration.

12. The continuous registration of the subject of the Registration is causing injury to petitioner's business plans; is impairing petitioner's rights in his Mark; is inconsistent with

petitioner's rights; and, will continue to cause injury to petitioner until the Registration is cancelled.

Second Basis for Cancellation - No Bona Fide Use in Commerce

13. Petitioner incorporates by reference paragraphs 1 through 12 as if fully stated here.

14. Since prior to the filing date in the Registration, registrant did not use the subject mark in good faith in commerce because he knew that petitioner was the rightful owner of the Mark, and misappropriated the Mark for his own purposes to use on registrant's own goods without petitioner's consent.

15. Petitioner alleges, on information and belief, that regardless of the above, registrant stated he used the claimed mark in commerce since January 24, 2012, in his application for the Registration.

16. Registrant did not have the right to use the claimed mark in commerce as petitioner was the rightful owner of the mark which is the subject of the Registration.

17. The continuous registration of the subject of the Registration is causing injury to petitioner's business plans; is impairing petitioner's rights in his Mark; is inconsistent with petitioner's rights; and, will continue to cause injury to petitioner until the Registration is cancelled.

Third Basis for Cancellation - No Rightful Ownership

18. Petitioner incorporates by reference paragraphs 1 through 17 as if fully stated here.

19. Registrant is not, and was not at the time of the filing of his application for the Registration, the rightful owner of the claimed mark, and, therefore, the application was void *ab initio*.

20. The continuous registration of the subject of the Registration is causing injury to petitioner's business plans; is impairing petitioner's rights in his Mark; is inconsistent with

petitioner's rights; and, will continue to cause injury to petitioner until the Registration is cancelled.

Fourth Basis for Cancellation - Fraud on the Patent and Trademark Office

21. Petitioner incorporates by reference paragraphs 1 through 20 as if fully stated here.

22. Registrant knew he did not have rights in the subject mark of the Registration when registrant submitted his application to the United States Patent and Trademark Office.

23. Registrant made false statements with the intent to induce authorized agents of the United States Patent and Trademark Office ("USPTO") to grant the Registration, and reasonably relying on the truth of said false statements, the USPTO did, in fact, grant this registration to registrant.

24. The continuous registration of the subject mark of the Registration is causing injury to petitioner's business plans; is impairing petitioner's rights in his Mark; is inconsistent with petitioner's rights; and, will continue to cause injury to petitioner until the Registration is cancelled.

25. Registrant is not entitled to continued registration of the Registration because registrant committed fraud upon the USPTO in the procurement of that Registration.

Fifth Basis for Cancellation - Misrepresentation as to Source of Goods

26. Petitioner incorporates by reference paragraphs 1 through 25 as if fully stated here.

27. The Registration is being used by, or with the permission of, registrant so as to misrepresent the source of the goods on which the mark is used.

28. Registrant has used, and is using, the subject mark on goods with a theme of drugs and violence rather than petitioner's reason for the TRAP logo which is an acronym for "to rise above poverty." (Emphasis added.) This usage is misrepresenting the source of the goods

sold by registrant as being from petitioner; is contrary to the reason for its use; and, is damaging the brand of the logo.

29. This above was and is a blatant misuse of the mark by registrant in a manner calculated to trade on the goodwill and reputation of petitioner.

30. The continuous registration of the subject mark of the Registration is causing injury to petitioner's business plans; is impairing petitioner's rights in his Mark; is inconsistent with petitioner's rights; and, will continue to cause injury to petitioner until the Registration is cancelled.

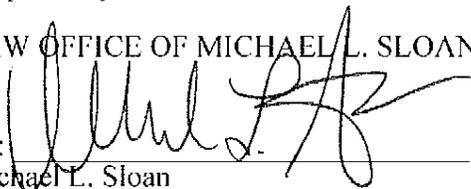
WHEREFORE, petitioner prays that this Petition for Cancellation be granted, and that United States Trademark Registration No. 4,278,610 be cancelled accordingly.

Please recognize as attorneys for petitioner in this proceeding Michael L. Sloan (member of the Bar of the State of California), 701 North Brand Boulevard, Suite 840, Glendale, California 91203. Please address all communications to **Michael L. Sloan, Esq.**, at the above address.

DATED: June 24, 2013

Respectfully Submitted,

LAW OFFICE OF MICHAEL L. SLOAN

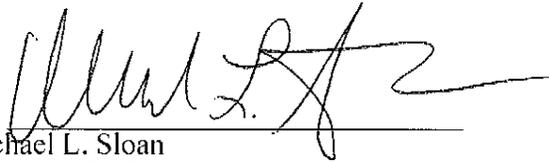
By: 
Michael L. Sloan
Attorneys for Petitioner
WILLIAM JONES

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 2.119, I hereby certify that a true and correct copy of the foregoing Petition for Cancellation was served, via overnight courier, on registrant Ellie Nahum, at the following address:

Ellie Nahum
14935 Addison Street
Sherman Oaks, California 91403

LAW OFFICE OF MICHAEL L. SLOAN

By: 

Michael L. Sloan
Attorneys for Petitioner
WILLIAM JONES