

ESTTA Tracking number: **ESTTA552085**

Filing date: **08/04/2013**

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

Proceeding	92057634
Party	Plaintiff JunkFood Clothing Company
Correspondence Address	WARREN E OLSEN FITZPATRICK CELLA HARPER & SCINTO 1290 AVENUE OF THE AMERICAS 17TH FLOOR NEW YORK, NY 10104-3800 UNITED STATES wolsen@fchs.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Warren E. Olsen, Reg No 27,290
Filer's e-mail	WOlsen@fchs.com
Signature	/warreneolsen/
Date	08/04/2013
Attachments	1044.013210 Entry of Amended Cancellation No 92057634.pdf(142695 bytes) 1044 013210 First Amended PETITION Reg 3786964.pdf(1499529 bytes) 1044 013220 First Amended PETITION Reg 3701449.pdf(1502135 bytes) 1044 013230 First Amended PETITION Reg 1377160.pdf(1487918 bytes)

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

In re:



Reg. Nos.: **3,786,964; 3,701,449; and 1,377,160**

JunkFood Clothing Company,)
(Georgia corporation))
Petitioner)
v.)
Pak's Trading Europe B.V.,)
(Netherlands corporation))
Respondent.)

Cancellation No. **92057634**
Atty Docket No. **01044.013210**
01044.013220
01044.013230

ENTRY OF FIRST AMENDED PETITIONS FOR CANCELLATION

JunkFood Clothing Company files the attached Amended Petitions for Cancellation of Registration Nos. 3,786,964; 3,701,449; and 1,377,160. These amended petitions are being filed as a matter of right within 21 days of the July 31, 2013 initial filing, in accordance with Trademark Rule 2.115 and Federal Rule of Civil Procedure 15. These petitions have each been amended to include those referenced Exhibits A-E, which were served upon the Registrant, but inadvertently were omitted from the ESTTA filing, on July 31, 2013.

Respectfully submitted,

Dated: **August 2, 2013**

/warreneolsen/

Warren E. Olsen (Reg. No. 27, 290)
Attorney of Record, DC bar member
FITZPATRICK, CELLA,
HARPER & SCINTO
1290 Avenue of the Americas
17th Floor
New York, NY 10104-3800
Tel. (212) 218-2100

Attorneys for Petitioner, JunkFood Clothing

Attachments: First Amended Petition for Partial Cancellation (Reg. No. 3,786,964);
First Amended Petition for Cancellation (Reg. No. 3,701,449);
First Amended Petition for Partial Cancellation (Reg. No. 1,377,160).

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on **August 2, 2013** I filed electronically, on ESTA of the United States Patent and Trademark Office a copy of the foregoing

ENTRY OF FIRST AMENDED PETITIONS FOR CANCELLATION

and also served a copy by e-mail [DOrlin@windelsmarx.com] upon prior agreement with a confirmation copy also served by first-class mail, postage prepaid, upon the current Correspondence Address of record and the current Domestic Representative address of record:

David Orlin,
WINDELS MARX LANE & MITTENDORF, LLP
156 West 56th Street
New York, NY 10019
/warreneolsen/

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

In re:



Registration:

Reg. No.: **3,786,964**

JunkFood Clothing Company, (Georgia corporation))	
)	Cancellation No. 92057634
Petitioner)	
v.)	Atty Docket No. 01044.013210
)	
Pak's Trading Europe B.V., (Netherlands corporation))	
Respondent.)	

FIRST AMENDED PETITION FOR PARTIAL CANCELLATION

JunkFood Clothing Company believes that it is and will continue to be damaged by the

registration of  (Reg. No. 3,786,964) [hereinafter "Registration"], and hereby timely petitions for a partial cancellation of the Registration as to International Class 025 under 15 USC § 1064, by and through its undersigned attorneys.

THE PARTIES AND STANDING TO CANCEL

1. Upon information and belief, the Registration was filed by, and the owner of record remains as, Pak's Trading Europe B.V., a Netherlands corporation, having a place of business at Molenvlietweg 6, 1432 GW Aalsmeer, Netherlands [hereinafter "Registrant" or "PTE"].

2. JunkFood Clothing Company [hereinafter "Petitioner" or "JF"], is a Georgia corporation having an address at 5770 W. Jefferson Blvd., Los Angeles, CA 90016-3107.

3. JF has standing and has been damaged by both oral and written allegations of infringement made by PTE against both JF and its customers between March 2012 and July 2013, based upon alleged rights in the Registration which are in fact inferior to and inconsistent with common law and statutory rights of JF arising from prior uses in commerce and prior registration.

4. JF has standing and has been damaged by the assertion of the Registration in Opposition No. 91207632 against JF's Application No. 77958107.

FACTS IN SUPPORT OF THE CANCELLATION

5. JF is a well-known manufacturer and distributor of apparel items throughout the United States that are directly competitive with, or related to, items within the recited Clothing



Goods, and has affixed the neck label  to millions of T-shirts that have been sold in commerce continuously, since 2005 and thereby has acquired prior rights in the design formative



with respect to apparel related to the Clothing Goods.

6. JF owns an incontestable, prior registration of  (Reg. No 2,697,853) issued March 18, 2003 for “clothing, namely, shirts, and baseball caps” in International Class 025. The TSDR Status for Reg. No. 2,697,853 is attached as Exhibit A.

7. The Registration was granted on May 11, 2010, upon an application filed June 25, 2009 based solely upon Section 44(e) and a claim to ownership of the design  of Benelux Reg. 0564597, dated May 16, 1995, for the recited International Class 025 goods “Clothing, footwear, headgear”. During prosecution of the Registration the goods in International Class 025 were amended to read “Clothing, namely, jackets, leather jackets, ski jackets, sail jackets, outer skiwear, shirts, t-shirts, pants, jeans, shorts, underwear, shawls, scarves, gloves, raincoats, belts, money belts; footwear; headgear, namely, hats, caps and berets” [herein “Clothing Goods”].

8. The Registration is limited to the priority of its filing date, June 25, 2009.

9. The Registration is supported by Declaration, Power of Attorney or Appointment of Domestic Representative signed and dated June 26, 2009, by Young S. Park, President of PTE.

10. In his June 26, 2009 declaration, Mr. Park declared that “Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services.”

11. PTE has alleged in the infringement letters that it has a United States presence at PO Box 5119, Longview Texas 75608. Upon information and belief, that mailing address is owned and operated solely by Vincistar USA Inc., a Texas corporation that was incorporated only on September 12, 2008.

12. PTE has alleged in the infringement letters only ownership of the Registration, and not any past or current use in commerce of the design  as a trademark upon any specific goods.

13. Despite repeated questioning by JF and its agents between March 2012 and July 2013, PTE has not identified a single use in United States commerce of the mark claimed in the Registration. Likewise, PTE has not identified any licensee, franchisee or related company that has used the mark claimed in the Registration at any time after the date of registration.

14. Upon information and belief, PTE maintains websites <http://www.vincistar.com> and <http://www.vincistarus.com> (last visited May 21, 2013). Neither website has any retail sales capability. The <http://www.vincistarus.com> states that “the company’s [sic] current focus is on the expansion of brand awareness through licensing opportunities” (Exhibit B).

15. The website <http://www.vincistarus.com> identifies only one location in the United States at 3607 Gilmer Road, PO Box 5119, Longview Texas 75608. Page 8 of an electronic brochure, Exhibit C, accessed through <http://www.vincistarus.com>, on or about April 29, 2013, identifies that in April of 1994, Vincistar’s “Pilot Store was opened in Longview, Texas, promoted as the corner stone [sic] of Vincistar’s franchise operations.” Visits to this location by an investigator on April 29 and 30, 2013 found neither a retail apparel operation open to the public nor anything that could be described as a “Pilot Store”. A picture of the building at

this location is attached as Exhibit D. A picture of a closed front door alleging a possible “showroom” is attached as Exhibit E.

16. JF, a well-known manufacturer and distributor of apparel items throughout the United States, has never encountered any of the various apparel goods claimed in the Registration bearing a mark as claimed in the Registration, and on sale in United States commerce.

17. Upon information and belief, PTE has not sold each item of the Clothing Goods

marked with the design  as a trademark in commerce at any time, after May 11, 2010.

18. Upon information and belief, PTE has not sold one or more items of the Clothing

Goods marked with the design  as a trademark in commerce for at least one continuous three year period, between May 11, 2010, and the present date.

19. Upon information and belief, PTE as of June 25, 2009, did not have a bona fide

intention to use the design  as a trademark in commerce upon one or more items item of the Clothing Goods.

20. Upon information and belief, PTE discontinued any use of the design  as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between May 11, 2010, and the present date.



21. Upon information and belief, PTE has abandoned use the design as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between May 11, 2010, and the present date.

FIRST GROUNDS OF CANCELLATION

22. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-21 of this Petition as if fully set forth herein.



23. The design registered as a trademark with respect to the recited items of Clothing Goods, is likely to cause confusion, or to cause mistake, or to deceive with respect to prior common law rights established in commerce by Petitioner for the design formative



as a trademark for apparel related to the Clothing Goods, and must be cancelled as to International Class 025, under 15 U.S.C. § 1052(d).

SECOND GROUNDS OF CANCELLATION

24. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-21 of this Petition as if fully set forth herein.



25. The design registered as a trademark with respect to the recited items of Clothing Goods, is likely to cause confusion, or to cause mistake, or to deceive with respect to

prior statutory rights from Petitioner's incontestable, prior registration of  (Reg. No. 2,697,853) issued March 18, 2003, for "clothing, namely, shirts, and baseball caps" and must be cancelled as to International Class 025, under 15 U.S.C. § 1052(d). A TSDR status is attached.

THIRD GROUNDS OF CANCELLATION

26. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-21 of this Petition as if fully set forth herein.

27. The design  registered as a trademark with respect to the recited items of Clothing Goods has never been used in commerce and the Registration and must be cancelled as abandoned as to International Class 025, under 15 U.S.C. § 1052(a).

FOURTH GROUNDS OF CANCELLATION

28. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-21 of this Petition as if fully set forth herein.

29. The design  registered as a trademark has not been used in commerce for at least one continuous 3 year period between May 11, 2010, and the present date with respect to one or more of the recited items of Clothing Goods and the Registration and must be cancelled as abandoned as to such items in International Class 025, under 15 U.S.C. § 1052(a).

FIFTH GROUNDS OF CANCELLATION

30. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-21 of this Petition as if fully set forth herein.

31. Upon information and belief, Yong S. Park declared on June 26, 2009, “Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services.” Upon information and belief, Young S. Park as President of PTE knew this statement to be false and intentionally made the statement to obtain registration under Section 44(e) of the Trademark Act.

32. Upon information and belief, Registrant made material misrepresentations of fact in the application and during prosecution as to a bona fide intent to use in US commerce as to each item of Clothing Goods in International Class 025 and the USPTO relied upon those misrepresentations when approving the opposed application for publication.

33. Upon information and belief, Registrant made these misrepresentations intentionally and with awareness of the falsity, and the entire registration must be cancelled on that basis.

WHEREFORE, Petitioner requests that  (Reg. No. 3,786,964) be fully or at least partially cancelled as to International Class 025 and that this Petition be sustained.

The required \$300 fee required for cancellation in one International Class has been previously paid by Deposit Account. Any additional fee required may be charged to Deposit Acct. 503939.

Respectfully submitted,

Dated: August 2, 2013

/warreneolsen/
Warren E. Olsen (Reg. No. 27, 290)
Attorney of Record, DC bar member
FITZPATRICK, CELLA,
HARPER & SCINTO
1290 Avenue of the Americas
17th Floor
New York, NY 10104-3800
Tel. (212) 218-2100

Attorneys for Petitioner, JunkFood Clothing

Attachments: EXHIBITS A- E

Exhibit A

[STATUS](#) [DOCUMENTS](#)[Back to Search](#)[Print](#)**Generated on:** This page was generated by TSDR on 2013-07-31 14:48:47 EDT**Mark:****US Serial Number:** 78087149**Application Filing Date:** Oct. 05, 2001**US Registration Number:** 2697853**Registration Date:** Mar. 18, 2003**Register:** Principal**Mark Type:** Trademark**Status:** The registration has been renewed.**Status Date:** Mar. 05, 2013**Publication Date:** Dec. 24, 2002

Mark Information

Mark Literal Elements: None**Standard Character Claim:** No**Mark Drawing Type:** 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)**Color(s) Claimed:** Color is not claimed as a feature of the mark.

Design Search Code(s): 01.01.10 - Three or more stars; Stars, three or more
 01.01.13 - Stars - multiple stars with five points
 02.11.07 - Arms; Fingers; Hands; Human hands, fingers, arms
 24.09.05 - American flags; Flags, American
 26.17.25 - Other lines, bands or bars

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Clothing, namely, shirts, [and baseball caps]**International Class(es):** 025 - Primary Class**U.S Class(es):** 022, 039**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Dec. 1995**Use in Commerce:** Apr. 22, 2002

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended
Filed ITU: Yes	Currently ITU: No	Amended
Filed 44D: No	Currently 44D: No	Amended
Filed 44E: No	Currently 44E: No	Amended
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: JUNKFOOD CLOTHING COMPANY

Owner Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 900163107
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** GEORGIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Warren E. Olsen **Docket Number:** 01044.0T4020

Attorney Primary Email: wolsen@fchs.com **Attorney Email Authorized:** No

Address:

Correspondent

Correspondent Name/Address: Warren E. Olsen
FITZPATRICK, CELLA, HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
17th Floor
NEW YORK, NEW YORK 10104-3800
UNITED STATES

Phone: 2122182100 **Fax:** 2122182200

Correspondent e-mail: wolsen@fchs.com **Correspondent e-mail Authorized:** No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 05, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Mar. 05, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67723
Mar. 05, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67723
Mar. 05, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723

Feb. 22, 2013	TEAS SECTION 8 & 9 RECEIVED	
Mar. 07, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr. 15, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	60132
Apr. 14, 2009	ASSIGNED TO PARALEGAL	60132
Apr. 11, 2009	TEAS SECTION 8 & 15 RECEIVED	
Mar. 04, 2008	CASE FILE IN TICRS	
Aug. 11, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 18, 2003	REGISTERED-PRINCIPAL REGISTER	
Dec. 24, 2002	PUBLISHED FOR OPPOSITION	
Dec. 04, 2002	NOTICE OF PUBLICATION	
Oct. 24, 2002	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 24, 2002	ASSIGNED TO EXAMINER	76520
Sep. 06, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 06, 2002	PAPER RECEIVED	
Jun. 10, 2002	FINAL REFUSAL MAILED	
Jun. 10, 2002	USE AMENDMENT ACCEPTED	
May 23, 2002	AMENDMENT TO USE PROCESSING COMPLETE	
May 02, 2002	USE AMENDMENT FILED	
May 02, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 02, 2002	PAPER RECEIVED	
Jan. 09, 2002	NON-FINAL ACTION MAILED	
Dec. 28, 2001	ASSIGNED TO EXAMINER	78199

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Mar. 18, 2013

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: Not Found

Date in Location: Mar. 05, 2013

Assignment Abstract Of Title Information

Summary

[Conveyance](#)

Total Assignments: 1

Registrant: Verden, Roger, E.

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4725/0062](#)

Pages: 2

Date Recorded: Feb. 27, 2012

Supporting Documents: [assignment-tm-4725-0062.pdf](#)**Assignor**Name: [VERDEN, ROGER E](#)

Execution Date: Feb. 21, 2012

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

AssigneeName: [JUNKFOOD CLOTHING COMPANY](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: GEORGIA

Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 90016-3107**Correspondent**

Correspondent Name: WARREN E. OLSEN

Correspondent Address: 1290 AVENUE OF THE AMERICAS
17TH FLOOR
NEW YORK, NY 10104-3800**Domestic Representative - Not Found****Proceedings****Summary**

Party type

Proceeding

Number of Proceedings: 1

Type of Proceeding: Cancellation

Exhibit B



VINCISTAR ©

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About

“Our philosophy is one of peace & victory.”

- Dr. Y. S. Park, CEO

Vincistar became a recognized trademark through widespread distribution of high end products in countless well known European and American department stores including JC Penney, Hennis & Mauritz, Piet Zoomers, C&A, Vendex and Karstadt. As a registered trademark in countries worldwide, Vincistar shared its spirit of and slogan “Peace and Victory” across the world for over three decades.

Pak’s Trading Europe B.V., the holding company in ownership of the brand, became associated with production units in various countries in Europe, the Far East and the United States. It established itself as a leading distributor within its field, and with the proven popularity of Vincistar products, the company’s current focus is on the expansion of brand awareness through licensing opportunities.



Exhibit C

In 1980 the decision was made to diversify business efforts to the production of a clothing brand with its own trademark and slogan: 'VINCISTAR, THE SPIRIT OF VICTORY AND PEACE'. This was a major turning point in the history of Vincistar. It became a recognized Trademark being sold in many well known European and American department stores, including Vendex, Karstadt, Piet Zoomers, H&M, JC Penney, Footlocker, C&A, Corte Piel and many more. As a registered trademark in countries all over the world, Vincistar was able to share its spirit of victory worldwide.

Vincistar has been controlled by the holding company Pak's Trading Europe B.V., that has been operating from its head office in Aalsmeer in the Netherlands. The departments that were based within the head office were Administration, Purchasing, Sales & Marketing, Accounting & Finance, Imports & Exports and Design. These departments have worked very much side-by-side, as a collaboration of efforts as opposed to a hierarchical structure.

Pak's Trading Europe began business in 1980 concentrating largely on the distribution of clothing throughout Europe. From an office located in the beautiful countryside of Holland, founder Young Shin Park and his small team of employees set about making a name for themselves.

Indeed, rapid success was to follow the company's formation. Pak's Trading progressed to become associated with production units all over the world, including the Far East, Europe and the United States. Within Europe they became established as leading distributors in their field.

With the proven popularity of Vincistar products in Europe, the company wanted to prove itself within the American market. The company Vincistar Inc. was founded in 1994. In April that year, its Pilot Store was opened in Longview, Texas, promoted as the corner stone of Vincistar's franchise operations.

The goodwill of Pak's Trading Europe's OEM department has recently been sold partially in order to concentrate on the expansion of brand-awareness. The restructured Pak's Trading Europe now has a consulting department and offers licensing opportunities for the Vincistar trademark and 'V' hand device.

Founder and CEO Mr. Park has continued the process of expanding brand awareness for Vincistar with success. Vincistar licensees are currently active in Europe, Asia, Canada and in the United States.

Exhibit D



Exhibit E



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

In re:



Registration:

Reg. No.: **3,701,449**

JunkFood Clothing Company, (Georgia corporation))	
)	Cancellation No. 92057634
Petitioner)	
v.)	Atty Docket No. 01044.013220
)	
Pak's Trading Europe B.V., (Netherlands corporation))	
)	
Respondent.)	

FIRST AMENDED PETITION FOR CANCELLATION

JunkFood Clothing Company believes that it is and will continue to be damaged by the



registration of (Reg. No. 3,701,449) [hereinafter "Registration"], and hereby timely petitions for a partial cancellation of the Registration as to International Class 025 under 15 USC § 1064, by and through its undersigned attorneys.

THE PARTIES AND STANDING TO CANCEL

1. Upon information and belief, the Registration was filed by, and the owner of record remains as, Pak's Trading Europe B.V., a Netherlands corporation, having a place of business at Molenvlietweg 6, 1432 GW Aalsmeer, Netherlands [hereinafter "Registrant" or "PTE"].

2. JunkFood Clothing Company [hereinafter "Petitioner" or "JF"], is a Georgia corporation having an address at 5770 W. Jefferson Blvd., Los Angeles, CA 90016-3107.

3. JF has standing and has been damaged by both oral and written allegations of infringement made by PTE against both JF and its customers between March 2012 and July 2013, based upon alleged rights in the Registration which are in fact inferior to and inconsistent with common law and statutory rights of JF arising from prior uses in commerce and prior registration.

4. JF has standing and has been damaged by the assertion of the Registration in Opposition No. 91207632 against JF's Application No. 77958107.

FACTS IN SUPPORT OF THE CANCELLATION

5. JF is a well-known manufacturer and distributor of apparel items throughout the United States that are directly competitive with, or related to, items within the recited Clothing



Goods , and has affixed the neck label  to millions of T-shirts that have been sold in commerce continuously, since 2005 and thereby has acquired prior rights in the design formative



with respect to apparel related to the Clothing Goods.



6. JF owns an incontestable, prior registration of (Reg. No. 2,697,853) issued March 18, 2003 for “clothing, namely, shirts, and baseball caps” in International Class 025. The TSDR Status for Reg. No. 2,697,853 is attached as Exhibit A.

7. The Registration was granted on October 27, 2009 upon an application filed April 9, 2009 based solely upon Section 1(a) of the Trademark Act for the recited International Class 025 goods “Clothing, namely, suits, coats, jackets, shirts, tops, t-shirts, shoes, pants, jeans, shorts, and underwear; footwear, and headgear, namely, hats, caps, and berets; shawls, scarves and gloves; rowing gear, namely, raincoats; women's clothing, namely, dresses, skirts, and blouses” [herein “Clothing Goods”].

8. The Registration is limited to the priority of its filing date, April 9, 2009.

9. The Registration is supported by Declaration, Power of Attorney or Appointment of Domestic Representative signed and dated April 7, 2009, by Young S. Park, President of PTE.

10. In his April 7, 2009 Declaration, Mr. Park declares that “the mark was . . . first used in commerce at least as early as 08/06/1984, and is now in use in such commerce.”

11. PTE has alleged in the infringement letters that it has a United States presence at PO Box 5119, Longview Texas 75608. Upon information and belief, that mailing address is owned and operated solely by Vincistar USA Inc., a Texas corporation that was incorporated only on September 12, 2008.

12. PTE has alleged in the infringement letters only ownership of the Registration,



and not any past or current use in commerce of the design as a trademark upon any specific goods.

13. Despite repeated questioning by JF and its agents between March 2012 and July 2013, PTE has not identified a single use in United States commerce of the mark claimed in the Registration. Likewise, PTE has not identified any licensee, franchisee or related company that has used the mark claimed in the Registration at any time after the date of registration.

14. Upon information and belief, PTE maintains websites <http://www.vincistar.com> and <http://www.vincistarus.com> (last visited May 21, 2013). Neither website has any retail sales capability. The <http://www.vincistarus.com> states that “the company’s [sic] current focus is on the expansion of brand awareness through licensing opportunities” (Exhibit B).

15. The website <http://www.vincistarus.com> identifies only one location in the United States at 3607 Gilmer Road, PO Box 5119, Longview Texas 75608. Page 8 of an electronic brochure, Exhibit C, accessed through <http://www.vincistarus.com>, on or about April 29, 2013, identifies that in April of 1994, Vincistar’s “Pilot Store was opened in Longview, Texas, promoted as the corner stone [sic] of Vincistar’s franchise operations.” Visits to this location by an investigator on April 29 and 30, 2013 found neither a retail apparel operation open to the public nor anything that could be described as a “Pilot Store”. A picture of the building at this location is attached as Exhibit D. A picture of a closed front door alleging a possible “showroom” is attached as Exhibit E.

16. JF, a well-known manufacturer and distributor of apparel items throughout the United States, has never encountered any of the various apparel goods claimed in the

Registration bearing a mark as claimed in the Registration, and on sale in United States commerce.

17. Upon information and belief, PTE has not sold each item of the Clothing Goods

marked with the design  as a trademark in commerce at any time, after August 6, 1984.

18. Upon information and belief, PTE has not sold each item of the Clothing Goods

marked with the design  as a trademark in commerce at any time, after April 9, 2009.

19. Upon information and belief, PTE has not sold each item of the Clothing Goods

marked with the design  as a trademark in commerce at any time, after October 27, 2009.

20. Upon information and belief, PTE has not sold one or more items of the Clothing

Goods marked with the design  as a trademark in commerce for at least one continuous three year period, between October 27, 2009, and the present date.

21. Upon information and belief, PTE as of April 9, 2009, did not have a bona fide

intention to use the design  as a trademark in commerce upon one or more items item of the Clothing Goods.

22. Upon information and belief, PTE discontinued any use of the design  as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between October 27, 2009, and the present date.

23. Upon information and belief, PTE has abandoned use the design  as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between October 27, 2009, and the present date.

FIRST GROUNDS OF CANCELLATION

24. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-23 of this Petition as if fully set forth herein.

25. The design  registered as a trademark with respect to the recited items of Clothing Goods, is likely to cause confusion, or to cause mistake, or to deceive with respect to prior common law rights established in commerce by Petitioner for the design formative

 as a trademark for apparel related to the Clothing Goods, and must be cancelled as to International Class 025, under 15 U.S.C. § 1052(d).

SECOND GROUNDS OF CANCELLATION

26. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-23 of this Petition as if fully set forth herein.



27. The design  registered as a trademark with respect to the recited items of Clothing Goods, is likely to cause confusion, or to cause mistake, or to deceive with respect to

prior statutory rights from Petitioner's incontestable, prior registration of  (Reg. No 2,697,853) issued March 18, 2003 for "clothing, namely, shirts, and baseball caps" and must be cancelled as to International Class 025, under 15 U.S.C. § 1052(d). A TSDR status is attached.

THIRD GROUNDS OF CANCELLATION

28. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-23 of this Petition as if fully set forth herein.



29. The design  registered as a trademark with respect to the recited items of Clothing Goods has never been used in commerce and the Registration and must be cancelled as abandoned as to International Class 025, under 15 U.S.C. § 1052(a).

FOURTH GROUNDS OF CANCELLATION

30. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-23 of this Petition as if fully set forth herein.



31. The design  registered as a trademark has not been used in commerce for at least one continuous 3 year period between October 27, 2009 and the present date with respect to one or more of the recited items of Clothing Goods and the Registration and must be cancelled as abandoned as to such items in International Class 025, under 15 U.S.C. § 1052(a).

FIFTH GROUNDS OF CANCELLATION

32. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-23 of this Petition as if fully set forth herein.

33. Upon information and belief, Young S. Park declared on April 20, 2009, that “the [Registration] was . . . first used in commerce at least as early as 08/06/1984, and is now in use in such commerce.” Upon information and belief, Young S. Park as President of PTE knew this statement to be false and intentionally made the statement to obtain registration under 1(a) of the Trademark Act.

34. Upon information and belief, Registrant made material misrepresentations of fact in the application and during prosecution as to a use in US commerce as to each item of Clothing Goods in International Class 025 and the USPTO relied upon those misrepresentations when approving the Registration for publication.

35. Upon information and belief, Registrant made these misrepresentations intentionally and with awareness of the falsity, and the entire registration must be cancelled on that basis.



WHEREFORE, Petitioner requests that (Reg. No. 3,701,449) be fully or at least partially cancelled as to International Class 025 and that this Petition be sustained.

The required \$300 fee required for cancellation in one International Class has been previously paid by Deposit Account. Any additional fee required may be charged to Deposit Acct. 503939.

Respectfully submitted,

Dated: August 2, 2013

/warreneolsen/
Warren E. Olsen (Reg. No. 27, 290)
Attorney of Record, DC bar member
FITZPATRICK, CELLA,
HARPER & SCINTO
1290 Avenue of the Americas
17th Floor
New York, NY 10104-3800
Tel. (212) 218-2100

Attorneys for Petitioner, JunkFood Clothing

Attachments: EXHIBITS A- E

Exhibit A

[STATUS](#) [DOCUMENTS](#)[Back to Search](#)[Print](#)**Generated on:** This page was generated by TSDR on 2013-07-31 14:48:47 EDT**Mark:****US Serial Number:** 78087149**Application Filing Date:** Oct. 05, 2001**US Registration Number:** 2697853**Registration Date:** Mar. 18, 2003**Register:** Principal**Mark Type:** Trademark**Status:** The registration has been renewed.**Status Date:** Mar. 05, 2013**Publication Date:** Dec. 24, 2002

Mark Information

Mark Literal Elements: None**Standard Character Claim:** No**Mark Drawing Type:** 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)**Color(s) Claimed:** Color is not claimed as a feature of the mark.

Design Search Code(s): 01.01.10 - Three or more stars; Stars, three or more
 01.01.13 - Stars - multiple stars with five points
 02.11.07 - Arms; Fingers; Hands; Human hands, fingers, arms
 24.09.05 - American flags; Flags, American
 26.17.25 - Other lines, bands or bars

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Clothing, namely, shirts, [and baseball caps]**International Class(es):** 025 - Primary Class**U.S Class(es):** 022, 039**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Dec. 1995**Use in Commerce:** Apr. 22, 2002

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended
Filed ITU: Yes	Currently ITU: No	Amended
Filed 44D: No	Currently 44D: No	Amended
Filed 44E: No	Currently 44E: No	Amended
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: JUNKFOOD CLOTHING COMPANY

Owner Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 900163107
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** GEORGIA

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: Warren E. Olsen **Docket Number:** 01044.0T4020

Attorney Primary Email: wolsen@fchs.com **Attorney Email Authorized:** No

Address:

Correspondent

Correspondent Name/Address: Warren E. Olsen
FITZPATRICK, CELLA, HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
17th Floor
NEW YORK, NEW YORK 10104-3800
UNITED STATES

Phone: 2122182100 **Fax:** 2122182200

Correspondent e-mail: wolsen@fchs.com **Correspondent e-mail Authorized:** No

Domestic Representative - Not Found**Prosecution History**

Date	Description	Proceeding Number
Mar. 05, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Mar. 05, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67723
Mar. 05, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67723
Mar. 05, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723

Feb. 22, 2013	TEAS SECTION 8 & 9 RECEIVED	
Mar. 07, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr. 15, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	60132
Apr. 14, 2009	ASSIGNED TO PARALEGAL	60132
Apr. 11, 2009	TEAS SECTION 8 & 15 RECEIVED	
Mar. 04, 2008	CASE FILE IN TICRS	
Aug. 11, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 18, 2003	REGISTERED-PRINCIPAL REGISTER	
Dec. 24, 2002	PUBLISHED FOR OPPOSITION	
Dec. 04, 2002	NOTICE OF PUBLICATION	
Oct. 24, 2002	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 24, 2002	ASSIGNED TO EXAMINER	76520
Sep. 06, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 06, 2002	PAPER RECEIVED	
Jun. 10, 2002	FINAL REFUSAL MAILED	
Jun. 10, 2002	USE AMENDMENT ACCEPTED	
May 23, 2002	AMENDMENT TO USE PROCESSING COMPLETE	
May 02, 2002	USE AMENDMENT FILED	
May 02, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 02, 2002	PAPER RECEIVED	
Jan. 09, 2002	NON-FINAL ACTION MAILED	
Dec. 28, 2001	ASSIGNED TO EXAMINER	78199

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Mar. 18, 2013

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: Not Found

Date in Location: Mar. 05, 2013

Assignment Abstract Of Title Information

Summary

[Conveyance](#)

Total Assignments: 1

Registrant: Verden, Roger, E.

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4725/0062](#)

Pages: 2

Date Recorded: Feb. 27, 2012

Supporting Documents: [assignment-tm-4725-0062.pdf](#)

Assignor

Name: [VERDEN, ROGER E](#)

Execution Date: Feb. 21, 2012

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee

Name: [JUNKFOOD CLOTHING COMPANY](#)

Legal Entity Type: CORPORATION

State or Country Where GEORGIA

Organized:

Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 90016-3107

Correspondent

Correspondent Name: WARREN E. OLSEN

Correspondent Address: 1290 AVENUE OF THE AMERICAS
17TH FLOOR
NEW YORK, NY 10104-3800

Domestic Representative - Not Found

Proceedings

Summary

Party type

Proceeding

Number of Proceedings: 1

Type of Proceeding: Cancellation

Exhibit B



VINCISTAR ©

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About

“Our philosophy is one of peace & victory.”

- Dr. Y. S. Park, CEO

Vincistar became a recognized trademark through widespread distribution of high end products in countless well known European and American department stores including JC Penney, Hennis & Mauritz, Piet Zoomers, C&A, Vendex and Karstadt. As a registered trademark in countries worldwide, Vincistar shared its spirit of and slogan “Peace and Victory” across the world for over three decades.

Pak’s Trading Europe B.V., the holding company in ownership of the brand, became associated with production units in various countries in Europe, the Far East and the United States. It established itself as a leading distributor within its field, and with the proven popularity of Vincistar products, the company’s current focus is on the expansion of brand awareness through licensing opportunities.



Exhibit C

In 1980 the decision was made to diversify business efforts to the production of a clothing brand with its own trademark and slogan: 'VINCISTAR, THE SPIRIT OF VICTORY AND PEACE'. This was a major turning point in the history of Vincistar. It became a recognized Trademark being sold in many well known European and American department stores, including Vendex, Karstadt, Piet Zoomers, H&M, JC Penney, Footlocker, C&A, Corte Piel and many more. As a registered trademark in countries all over the world, Vincistar was able to share its spirit of victory worldwide.

Vincistar has been controlled by the holding company Pak's Trading Europe B.V., that has been operating from its head office in Aalsmeer in the Netherlands. The departments that were based within the head office were Administration, Purchasing, Sales & Marketing, Accounting & Finance, Imports & Exports and Design. These departments have worked very much side-by-side, as a collaboration of efforts as opposed to a hierarchical structure.

Pak's Trading Europe began business in 1980 concentrating largely on the distribution of clothing throughout Europe. From an office located in the beautiful countryside of Holland, founder Young Shin Park and his small team of employees set about making a name for themselves.

Indeed, rapid success was to follow the company's formation. Pak's Trading progressed to become associated with production units all over the world, including the Far East, Europe and the United States. Within Europe they became established as leading distributors in their field.

With the proven popularity of Vincistar products in Europe, the company wanted to prove itself within the American market. The company Vincistar Inc. was founded in 1994. In April that year, its Pilot Store was opened in Longview, Texas, promoted as the corner stone of Vincistar's franchise operations.

The goodwill of Pak's Trading Europe's OEM department has recently been sold partially in order to concentrate on the expansion of brand-awareness. The restructured Pak's Trading Europe now has a consulting department and offers licensing opportunities for the Vincistar trademark and 'V' hand device.

Founder and CEO Mr. Park has continued the process of expanding brand awareness for Vincistar with success. Vincistar licensees are currently active in Europe, Asia, Canada and in the United States.

Exhibit D



Exhibit E



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

In re:



Registration:

Reg. No.: **1,377,160**

JunkFood Clothing Company, (Georgia corporation))	
)	Cancellation No. 92057634
Petitioner)	
v.)	Atty Docket No. 01044.013230
)	
Pak's Trading Europe B.V., (Netherlands corporation))	
)	
Respondent.)	

FIRST AMENDED PETITION FOR PARTIAL CANCELLATION

JunkFood Clothing Company believes that it is and will continue to be damaged by the

registration of  (Reg. No. 1,377,160) [hereinafter "Registration"], and hereby timely petitions for a partial cancellation of the Registration as to International Class 025 under 15 USC § 1064, by and through its undersigned attorneys.

THE PARTIES AND STANDING TO CANCEL

1. Upon information and belief, the Registration was filed by, and the owner of record remains as, Pak's Trading Europe B.V., a Netherlands corporation, having a place of business at Molenvlietweg 6, 1432 GW Aalsmeer, Netherlands [hereinafter "Registrant" or "PTE"].

2. JunkFood Clothing Company [hereinafter "Petitioner" or "JF"] is a Georgia corporation having an address at 5770 W. Jefferson Blvd., Los Angeles, CA 90016-3107.

3. JF has standing and has been damaged by both oral and written allegations of infringement made by PTE against both JF and its customers between March 2012 and July 2013, based upon alleged rights in the Registration which are in fact inferior to and inconsistent with common law and statutory rights of JF arising from prior uses in commerce and prior registration.

4. JF has standing and has been damaged by the assertion of the Registration in Opposition No. 91207632 against JF's Application No. 77958107.

FACTS IN SUPPORT OF THE CANCELLATION

5. JF is a well-known manufacturer and distributor of apparel items throughout the United States that are directly competitive with, or related to, items within the recited Clothing

Goods, and has affixed the neck label  to millions of T-shirts that have been sold in commerce continuously, since 2005 and thereby has acquired prior rights in the design formative



with respect to apparel related to the Clothing Goods.



6. JF owns an incontestable, registration of (Reg. No 2,697,853) issued March 18, 2003 for “clothing, namely, shirts, and baseball caps” in International Class 025. The TSDR Status for Reg. No. 2,697,853 is attached as Exhibit A.

7. The Registration was granted on January 7, 1986, upon an application filed August 6, 1984, based solely upon Section 44(e) and a claim to ownership of the design of Benelux Reg. 0390430, dated May 18, 1983, for the recited International Class 025 goods “ready-made garments and casual wear”. During prosecution of the Registration the goods in International Class 025 were amended to read “Men’s, Women’s and Children’s Cloth and Leather Jackets, Coats and Trousers; Cloth and Knitted Shirts and Shorts; and Underwear” [herein “Clothing Goods”].



8. The Registration is limited to the priority of its filing date, August 6, 1984.

9. The Registration is supported by Declaration, Power of Attorney or Appointment of Domestic Representative signed and dated July 25, 1984, by Young S. Park, President of PTE.

10. In his July 25, 1984 Declaration, Mr. Park declares that “[t]he mark is used by applying it to stationery and goods.”

11. Mr. Park submitted an Affidavit signed and dated February 7, 1984, in which he affirms that “[t]he mark is used on labels and hang-tags attached to the goods and by applying it

to the goods. . . . Each of [the submitted specimens] was in use in commerce with the United States prior to the date of this application, August, [sic] 6, 1984.”

12. Mr. Park submitted an Affidavit signed and dated December 19, 1991, in which he affirms that “the mark has been in continuous use in commerce with the United States since January 7, 1986, . . . in International Class 25 for cloth and knitted shirts and shorts; [sic] and underwear; . . . that such mark is still in use in commerce with the United States as evidenced by the accompanying specimens for each class showing the mark as currently used on labels and hang tags attached to the goods and by applying it to the goods.” The Examiner made checkmarks over each of these statements and initialed the Affidavit.

13. David Orlin, purporting himself as PTE’s trademark attorney, submitted a Combined Declaration of Use in Commerce/Application for Renewal of Registration of Mark Under §§ 8 & 9 signed and dated January 5, 2006, in which he declared that “[t]he owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimens(s) showing the mark as currently used in commerce.”

14. Upon information and belief, the specimens submitted for class 25, “Men’s cloth trousers,” in the January 5, 2006 Application for Renewal are images of the same specimens submitted with the original application.

15. PTE has alleged in the infringement letters that it has a United States presence at PO Box 5119, Longview Texas 75608. Upon information and belief, that mailing address is owned and operated solely by Vincistar USA Inc., a Texas corporation that was incorporated only on September 12, 2008.

16. PTE has alleged in the infringement letters only ownership of the Registration, and not any past or current use in commerce of the design  as a trademark upon any specific goods.

17. Despite repeated questioning by JF and its agents between March 2012 and July 2013, PTE has not identified a single use in United States commerce of the mark claimed in the Registration. Likewise, PTE has not identified any licensee, franchisee or related company that has used the mark claimed in the Registration at any time after the date of registration.

18. Upon information and belief, PTE maintains websites <http://www.vincistar.com> and <http://www.vincistarus.com> (last visited May 21, 2013). Neither website has any retail sales capability. The <http://www.vincistarus.com> states that “the company’s [sic] current focus is on the expansion of brand awareness through licensing opportunities” (Exhibit B).

19. The website <http://www.vincistarus.com> identifies only one location in the United States at 3607 Gilmer Road, PO Box 5119, Longview Texas 75608. Page 8 of an electronic brochure, Exhibit C, accessed through <http://www.vincistarus.com>, on or about April 29, 2013, identifies that in April of 1994, Vincistar’s “Pilot Store was opened in Longview, Texas, promoted as the corner stone [sic] of Vincistar’s franchise operations.” Visits to this location by an investigator on April 29 and 30, 2013 found neither a retail apparel operation open to the public nor anything that could be described as a “Pilot Store”. A picture of the building at this location is attached as Exhibit D. A picture of a closed front door alleging a possible “showroom” is attached as Exhibit E.

20. JF, a well-known manufacturer and distributor of apparel items throughout the United States, has never encountered any of the various apparel goods claimed in the

Registration bearing a mark as claimed in the Registration, and on sale in United States commerce.

21. Upon information and belief, PTE has not sold each item of the Clothing Goods

marked with the design  as a trademark in commerce at any time, after January 7, 1986.

22. Upon information and belief, PTE has not sold one or more items of the Clothing

Goods marked with the design  as a trademark in commerce for at least one continuous three year period, between January 7, 1986, and the present date.

23. Upon information and belief, PTE as of August 6, 1984, did not have a bona fide

intention to use the design  as a trademark in commerce upon one or more items item of the Clothing Goods.

24. Upon information and belief, PTE discontinued any use of the design  as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between January 7, 1986, and the present date.

25. Upon information and belief, PTE has abandoned use the design  as a trademark in commerce with respect to one or more items of the Clothing Goods, with no intent to resume use, between January 7, 1986, and the present date.

FIRST GROUNDS OF CANCELLATION

26. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-25 of this Petition as if fully set forth herein.



27. The design  registered as a trademark with respect to the recited items of Clothing Goods has never been used in commerce and the Registration and must be cancelled as abandoned as to International Class 025, under 15 U.S.C. § 1052(a).

SECOND GROUNDS OF CANCELLATION

28. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-25 of this Petition as if fully set forth herein.



29. The design  registered as a trademark has not been used in commerce for at least one continuous 3 year period between January 7, 1986, and the present date with respect to one or more of the recited items of Clothing Goods and the Registration and must be cancelled as abandoned as to such items in International Class 025, under 15 U.S.C. § 1052(a).

THIRD GROUNDS OF CANCELLATION

30. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1-25 of this Petition as if fully set forth herein.

31. Upon information and belief, Young S. Park affirmed on December 19, 1991, that “the [Registration] has been in continuous use in commerce with the United States since January 7, 1986, . . . in International Class 25 for cloth and knitted shirts and shorts; [sic] and

underwear; . . . that [the Registration] is still in use in commerce with the United States as evidenced by the accompanying specimens for each class showing the mark as currently used on labels and hang tags attached to the goods and by applying it to the goods.” Upon information and belief, Young S. Park as President of PTE knew this statement to be false and intentionally made the statement to obtain renewal under Section 8 of the Trademark Act.

32. Upon information and belief, David Orlin declared on January 5, 2006, that “[t]he owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimens(s) showing the mark as currently used in commerce.” Upon information and belief, David Orlin as attorney and agent of PTE knew this statement to be false and intentionally made the statement to obtain renewal under Section 8 of the Trademark Act.

33. Upon information and belief, Registrant made material misrepresentations of fact in the application and during prosecution as to a use in US commerce as to each item of Clothing Goods in International Class 025 and the USPTO relied upon those misrepresentations when approving the Registration for incontestability on April 21, 1992 and renewing the Registration on April 19, 2006.

34. Upon information and belief, Registrant made these misrepresentations intentionally and with awareness of the falsity, and the entire registration must be cancelled on that basis.



WHEREFORE, Petitioner requests that  (Reg. No. 1,377,160) be fully or at least partially cancelled as to International Class 025 and that this Petition be sustained.

The required \$300 fee required for cancellation in one International Class has been previously paid by Deposit Account. Any additional fee required may be charged to Deposit Acct. 503939.

Respectfully submitted,

Dated: August 2, 2013

/warreneolsen/
Warren E. Olsen (Reg. No. 27, 290)
Attorney of Record, DC bar member
FITZPATRICK, CELLA,
HARPER & SCINTO
1290 Avenue of the Americas
17th Floor
New York, NY 10104-3800
Tel. (212) 218-2100

Attorneys for Petitioner, JunkFood Clothing

Attachments: EXHIBITS A- E

Exhibit A

[STATUS](#) [DOCUMENTS](#)[Back to Search](#)[Print](#)**Generated on:** This page was generated by TSDR on 2013-07-31 14:48:47 EDT**Mark:****US Serial Number:** 78087149**Application Filing Date:** Oct. 05, 2001**US Registration Number:** 2697853**Registration Date:** Mar. 18, 2003**Register:** Principal**Mark Type:** Trademark**Status:** The registration has been renewed.**Status Date:** Mar. 05, 2013**Publication Date:** Dec. 24, 2002

Mark Information

Mark Literal Elements: None**Standard Character Claim:** No**Mark Drawing Type:** 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)**Color(s) Claimed:** Color is not claimed as a feature of the mark.

Design Search Code(s): 01.01.10 - Three or more stars; Stars, three or more
 01.01.13 - Stars - multiple stars with five points
 02.11.07 - Arms; Fingers; Hands; Human hands, fingers, arms
 24.09.05 - American flags; Flags, American
 26.17.25 - Other lines, bands or bars

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Clothing, namely, shirts, [and baseball caps]**International Class(es):** 025 - Primary Class**U.S Class(es):** 022, 039**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Dec. 1995**Use in Commerce:** Apr. 22, 2002

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended
Filed ITU: Yes	Currently ITU: No	Amended
Filed 44D: No	Currently 44D: No	Amended
Filed 44E: No	Currently 44E: No	Amended
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: JUNKFOOD CLOTHING COMPANY

Owner Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 900163107
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** GEORGIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Warren E. Olsen **Docket Number:** 01044.0T4020

Attorney Primary Email: wolsen@fchs.com **Attorney Email Authorized:** No

Address:

Correspondent

Correspondent Name/Address: Warren E. Olsen
FITZPATRICK, CELLA, HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
17th Floor
NEW YORK, NEW YORK 10104-3800
UNITED STATES

Phone: 2122182100 **Fax:** 2122182200

Correspondent e-mail: wolsen@fchs.com **Correspondent e-mail Authorized:** No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 05, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Mar. 05, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67723
Mar. 05, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67723
Mar. 05, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723

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Mar. 04, 2008	CASE FILE IN TICRS	
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Dec. 28, 2001	ASSIGNED TO EXAMINER	78199

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Mar. 18, 2013

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: Not Found

Date in Location: Mar. 05, 2013

Assignment Abstract Of Title Information

Summary

[Conveyance](#)

Total Assignments: 1

Registrant: Verden, Roger, E.

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4725/0062](#)

Pages: 2

Date Recorded: Feb. 27, 2012

Supporting Documents: [assignment-tm-4725-0062.pdf](#)**Assignor**Name: [VERDEN, ROGER E](#)

Execution Date: Feb. 21, 2012

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

AssigneeName: [JUNKFOOD CLOTHING COMPANY](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: GEORGIA

Address: 5770 W. JEFFERSON BLVD.
LOS ANGELES, CALIFORNIA 90016-3107**Correspondent**

Correspondent Name: WARREN E. OLSEN

Correspondent Address: 1290 AVENUE OF THE AMERICAS
17TH FLOOR
NEW YORK, NY 10104-3800**Domestic Representative - Not Found****Proceedings****Summary**

Party type

Proceeding

Number of Proceedings: 1

Type of Proceeding: Cancellation

Exhibit B



VINCISTAR ©

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About

“Our philosophy is one of peace & victory.”

- Dr. Y. S. Park, CEO

Vincistar became a recognized trademark through widespread distribution of high end products in countless well known European and American department stores including JC Penney, Hennis & Mauritz, Piet Zoomers, C&A, Vendex and Karstadt. As a registered trademark in countries worldwide, Vincistar shared its spirit of and slogan “Peace and Victory” across the world for over three decades.

Pak’s Trading Europe B.V., the holding company in ownership of the brand, became associated with production units in various countries in Europe, the Far East and the United States. It established itself as a leading distributor within its field, and with the proven popularity of Vincistar products, the company’s current focus is on the expansion of brand awareness through licensing opportunities.



Exhibit C

In 1980 the decision was made to diversify business efforts to the production of a clothing brand with its own trademark and slogan: 'VINCISTAR, THE SPIRIT OF VICTORY AND PEACE'. This was a major turning point in the history of Vincistar. It became a recognized Trademark being sold in many well known European and American department stores, including Vendex, Karstadt, Piet Zoomers, H&M, JC Penney, Footlocker, C&A, Corte Piel and many more. As a registered trademark in countries all over the world, Vincistar was able to share its spirit of victory worldwide.

Vincistar has been controlled by the holding company Pak's Trading Europe B.V., that has been operating from its head office in Aalsmeer in the Netherlands. The departments that were based within the head office were Administration, Purchasing, Sales & Marketing, Accounting & Finance, Imports & Exports and Design. These departments have worked very much side-by-side, as a collaboration of efforts as opposed to a hierarchical structure.

Pak's Trading Europe began business in 1980 concentrating largely on the distribution of clothing throughout Europe. From an office located in the beautiful countryside of Holland, founder Young Shin Park and his small team of employees set about making a name for themselves.

Indeed, rapid success was to follow the company's formation. Pak's Trading progressed to become associated with production units all over the world, including the Far East, Europe and the United States. Within Europe they became established as leading distributors in their field.

With the proven popularity of Vincistar products in Europe, the company wanted to prove itself within the American market. The company Vincistar Inc. was founded in 1994. In April that year, its Pilot Store was opened in Longview, Texas, promoted as the corner stone of Vincistar's franchise operations.

The goodwill of Pak's Trading Europe's OEM department has recently been sold partially in order to concentrate on the expansion of brand-awareness. The restructured Pak's Trading Europe now has a consulting department and offers licensing opportunities for the Vincistar trademark and 'V' hand device.

Founder and CEO Mr. Park has continued the process of expanding brand awareness for Vincistar with success. Vincistar licensees are currently active in Europe, Asia, Canada and in the United States.

Exhibit D



Exhibit E

