

ESTTA Tracking number: **ESTTA554666**

Filing date: **08/18/2013**

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	Robert M. Johnson		
Entity	Individual	Citizenship	UNITED STATES
Address	111 WILD TURKEY WAY Huntsville, AL 35824 UNITED STATES		

Attorney information	Luke Brean BreanLaw, LLC P.O. Box 4120, ECM#72065 Portland, OR 97208 UNITED STATES luke@breanlaw.com Phone:800-451-5815		
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Registration Subject to Cancellation

Registration No	1944932	Registration date	01/02/1996
Registrant	TOTAL KIDS WEAR, INC. 1320 JULES POITRAS ST. LAURENT, QUEBEC, CANADA		

Goods/Services Subject to Cancellation

Class 025. First Use: 1993/03/00 First Use In Commerce: 1993/03/00 All goods and services in the class are cancelled, namely: wearing apparel, namely girls and boys pants, shorts, tops, sweaters, sweatsuits, rompers, skirts, dresses, T-shirts, blouses, shirts, jackets, vests, and jumpsuits

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	ALLEYKATZcancelation.pdf(175563 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	/LB/
Name	Luke Brean

Date	08/18/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Registration No. 1944932

Robert M. Johnson

Petitioner,

v.

Total Kids Wear, Inc.

Respondent.

PETITION TO CANCEL

Robert M. Johnson, an individual having an address at 111 Wild Turkey Way, Huntsville, Alabama 35824 (“Petitioner”), believes he will be damaged by Total Kids Wear Inc.’s (“Respondant”) U.S. Registration No. 1944932 for the mark ALLEY CATS which covers goods in Class 025, for, “wearing apparel, namely girls and boys pants, shorts, tops, sweaters, sweatsuits, rompers, skirts, dresses, T-shirts, blouses, shirts, jackets, vests, and jumpsuits” and hereby petitions to cancel the registration ration of said mark. In support thereof the petitioner states as follows:

1. Upon information and belief, the name of the current owner of the registration is Total Kids Wear, Inc., a Canadian Corporation, with an address of 1320 Jules Poitras, St. Laurent Quebec, Canada (“Respondent”).
2. On April 16, 1994 Respondent filed a trademark application seeking registration for the mark ALLEY CATS in connection with “wearing apparel, namely girls and boys pants, shorts, tops, sweaters, sweatsuits, rompers, skirts, dresses, T-shirts, blouses, shirts, jackets, vests, and jumpsuits” in Class 025. The application was assigned Application Serial No. 74464425. Respondent's application was granted registration on January 2, 1996 and issued under Registration No. 1944932.

3. Petitioner filed an application for registration of the mark ALLEY KATZ (and design) on November 1, 2012 for “Women's clothing, namely, shirts, dresses, skirts, blouses.”

4. On February 28, 2013 the United States Patent and Trademark Office issued an Office Action in connection with Petitioner's Application Serial No. 85765489 stating, inter alia, Registration of the applied-for mark is refused because of a likelihood of confusion with U.S. Registration No. 1944932. Trademark Act Section 2(d), 15 U.S.C.A. § 1052(d); see TMEP §§ 1207.01 *et seq.*

5. Petitioner is being harmed by the Registration because the PTO Examining Attorney has refused the Application for registration.

COUNT I: MARK HAS BEEN ABANDONED

6. Petitioner repeats and incorporates herein by reference the averments in the preceding paragraphs.

7. Upon information and belief, Registrant is not currently using, and has not used for at least the past two years, and possibly longer, the ALLEY CATS mark as a trademark designating the source of “wearing apparel, namely girls and boys pants, shorts, tops, sweaters, sweatsuits, rompers, skirts, dresses, T-shirts, blouses, shirts, jackets, vests, and jumpsuits” in Class 025.

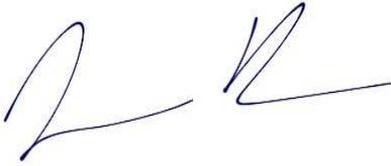
PRAYER FOR RELIEF

WHEREFORE, No. 1944932 be cancelled as it relates to the goods for which it is registered.

The filing fee of \$300 for this Petition to Cancel is being submitted electronically with this Notice.

Respectfully submitted,

Robert Johnson

A handwritten signature in blue ink, consisting of two stylized, overlapping characters that appear to be 'L' and 'B'.

By his Attorneys
Luke Brean, Esq.

BreanLaw, LLC
P.O. Box 4120
ECM #72065
Portland, Oregon 97208
800-451-5815
luke@breanlaw.com

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that the foregoing Notice of Opposition is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this August 18, 2013.

A handwritten signature in blue ink, appearing to read 'L. Brean', with a long horizontal stroke extending to the right.

Luke Brean, Esq.

BreanLaw, LLC
P.O. Box 4120
ECM #72065
Portland, Oregon 97208

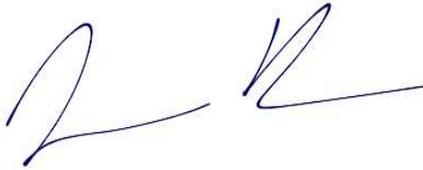
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION TO CANCEL is being deposited with the U.S. Postal Service with sufficient postage as certified first-class mail this August 18, 2013 in an envelope addressed to the Registrant:

TOTAL KIDS WEAR, INC.

Owner Address:

1320 JULES POITRAS
ST. LAURENT, QUEBEC
CANADA

A handwritten signature in blue ink, appearing to read 'L. Brean', with a long horizontal stroke extending to the right.

Luke Brean, Esq.

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