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Filing date: **10/18/2013**

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	2156775 Ontario Inc.		
Entity	Corporation	Citizenship	Canada
Address	4544 Eastgate Pkwy. Mississauga, ON L4W 3W6 CANADA		

Attorney information	Ronald E. Shapiro Shapiro and Silverstein PLLC 11350 Random Hills Road, Suite 740 Fairfax, VA 22030 UNITED STATES rshapiro@sasiplaw.com Phone:703-273-7680		
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### Registration Subject to Cancellation

Registration No	3624412	Registration date	05/19/2009
Registrant	GI Group, Inc. 8301 Rio San Diego Dr, #5 San Diego, CA 92108 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 032. First Use: 2009/03/02 First Use In Commerce: 2009/03/02 All goods and services in the class are cancelled, namely: Beer, ale, lager, stout, porter, shandy
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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)
Other	The underlying application was void, because the mark was not used in commerce prior to the filing date of the statement of use. Trademark Act section 1(a)

Attachments	SKMBT_C35313101815360.pdf(802369 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	/Ronald E. Shapiro/
Name	Ronald E. Shapiro
Date	10/18/2013

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

2156775 ONTARIO INC.,

Petitioner,

v.

GI GROUP, INC.,

Respondent.

Cancellation No. \_\_\_\_\_

Registration No. 3,624,412

Mark: STARZ

**PETITION TO CANCEL**

2156775 Ontario Inc. (“Petitioner”), a Canadian corporation having its principal place of business at 4544 Eastgate Pkwy., Mississauga, Ontario, Canada L4W 3W6, believes that it is being damaged and will continue to be damaged by Registration No. 3,624,412 issued on May 19, 2009, to GI Group, Inc. (“Respondent”) for the mark STARZ in connection with, “beer, ale, lager, stout, porter, shandy” in International Class 32. Accordingly, Petitioner files this Petition to Cancel Registration No. 3,624,412.

The grounds for this Petition are:

1. Respondent owns Registration No. 3,624,412 (“Respondent’s Registration”) for the mark STARZ (“Respondent’s Mark”).
2. Petitioner filed U.S. Trademark Application Serial No. 77533277 for the mark STAR for beer (“Petitioner’s Application”) on July 29, 2008.

3. In an office action dated July 8, 2010, the U.S. Patent and Trademark Office finally refused Petitioner's Application, citing, *inter alia*, Respondent's Registration and alleging a likelihood of confusion between Respondent's Mark and the mark of Petitioner's Application.

4. Petitioner has appealed the final refusal of Petitioner's Application, and that appeal is pending before the Trademark Trial and Appeal Board.

5. Respondent's Registration was issued pursuant to U.S. Trademark Application Serial No. 77475910, which was filed May 15, 2008 ("Respondent's Application").

6. In a statement of use filed on March 5, 2009, Respondent claimed to have used Respondent's Mark in commerce on or in connection with all of the goods identified in Respondent's Application.

7. Based on an investigation conducted on behalf of Petitioner ("Petitioner's Investigation"), Petitioner avers that Respondent had not used Respondent's Mark outside of California on or in connection with any of the goods identified in Respondent's Application prior to the filing date of the statement of use in Respondent's Application.

8. Based on Petitioner's Investigation, Petitioner avers that Respondent had not used Respondent's Mark in commerce on or in connection with any of the goods identified in Respondent's Application prior to the filing date of the statement of use in Respondent's Application. Respondent's Registration should therefore be cancelled on the ground that the underlying application was void.

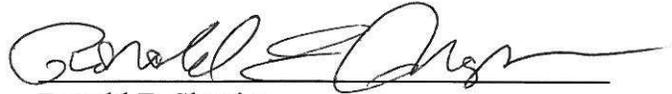
9. Based on Petitioner's Investigation, Petitioner avers that Respondent's claim to have used Respondent's Mark in commerce on or in connection with the goods identified in Respondent's Application was a false, material representation made with the intent to deceive the

Patent and Trademark Office. Respondent's Registration should therefore be cancelled on the ground that it was obtained by fraud.

WHEREFORE, Petitioner prays that this Petition to Cancel be granted.

Respectfully submitted,

Date: October 18, 2013



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Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was mailed to Respondent on October 18, 2013, by first class mail, postage prepaid, at the following address:

GI Group, Inc.  
8301 Rio San Diego Dr, #5  
San Diego, California 92108

A handwritten signature in black ink, appearing to read "Ronald E. Shapiro", written over a horizontal line.

Ronald E. Shapiro