

ESTTA Tracking number: **ESTTA568236**

Filing date: **10/31/2013**

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	Toosh Casuals, Inc.		
Entity	Corporation	Citizenship	New York
Address	263 Bleecker Street New York, NY 10014 UNITED STATES		

Attorney information	William H. Cox Gordon, Herlands, Randolph & Cox LLP 355 Lexington Avenue New York, NY 10017 UNITED STATES wcox@gordonherlands.com Phone:212-986-1200		
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Registration Subject to Cancellation

Registration No	3781353	Registration date	04/27/2010
International Registration No.	NONE	International Registration Date	NONE
Registrant	Geraldini Jacopo Via Vivaio, 4 I-20100 Milano MI, ITX ITX		

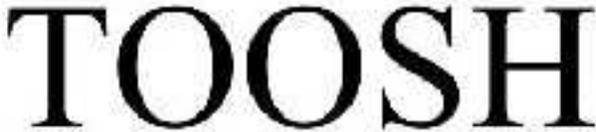
Goods/Services Subject to Cancellation

Class 024. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: TEXTILES AND TEXTILES GOODS, NAMELY, CASHMERE BLANKETS, CASHMERE FABRIC, WOOL BASE MIXED FABRICS, WOOL YARN FABRICS, WOOLEN CLOTH, WOOLEN FABRIC, WORSTED FABRICS, WOVEN FABRICS AND KNITTED FABRICS, BED AND TABLE COVERS, NOT OF PAPER
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: CLOTHING, NAMELY, SCARFS, SCARVES, SHAWLS AND HEADSCARVES, SHAWLS AND STOLES, FOOTWEAR, HEADWEAR

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85921824	Application Date	05/02/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TOOSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1994/04/21 First Use In Commerce: 1994/04/21 Retail apparel stores; Retail store services featuring apparel, handbags, purses and apparel accessories		

Attachments	85921824#TMSN.jpeg(bytes) ecotoosh.petition.pdf(1034438 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	/peter j. vranum/
Name	Peter J. Vranum
Date	10/31/2013

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

-----X)	
TOOSH CASUALS, INC.,)	
)	Cancellation No.
Petitioner,)	
)	Registration No. 3781353
v.)	
)	
GERALDINI JACOPO)	
LIABILITY COMPANY,)	
)	
Registrant.)	
-----X)	

PETITION FOR CANCELLATION

In the matter of the registration for the mark "ECO TOOSH", Registration No. 3781353 for a) textiles and textiles goods, namely, cashmere blankets, cashmere fabric, wool base mixed fabrics, wool yarn fabrics, woolen cloth, woolen fabric, worsted fabrics, woven fabrics and knitted fabrics, bed and table covers, not of paper (International Class 24); and b) clothing, namely, scarfs, scarves, shawls and headscarves, shawls and stoles, footwear (International Class 25), filed under Section 66A of the Trademark Act on April 6, 2009 by Geraldini Jacopo Liability Company of Via Vivaio 4, 1-20100, Milano, MI Italy (hereinafter called "Registrant"), which was registered on April 27, 2010. Toosh Casuals, Inc., a corporation organized under the laws of the State of New York, domiciled and doing business at 263 Bleecker Street, New York New York 10014 (hereinafter called "Petitioner"), believes that it would be damaged by the continued existence of such registration and hereby petitions to cancel

same.

The grounds for cancellation, on information and belief, are as follows:

1. Petitioner, Toosh Casuals, Inc., and/or its predecessor in interest, is now and has been engaged in providing retail store services featuring apparel, handbags, purses and apparel accessories and in operating retail apparel stores.

2. Petitioner has used and presently uses the mark "TOOSH" in connection with the services identified in paragraph 1.

3. Petitioner is the owner of a trademark application for TOOSH (Serial No. 85921824 dated May 2, 2013).

4. Since prior to use of the mark in the U.S., prior to the filing date of Registration No. 3781353 and prior to any constructive priority date accorded the Registration, Petitioner and/or its predecessor did use and have continuously used in interstate commerce the mark TOOSH in connection with the various services described in paragraph 1 herein extensively throughout the United States. By reason of such extensive use and promotion, Petitioner has attained an enviable reputation for high standards of quality, and the mark TOOSH and variations thereof have become distinctive of and associated in the minds of the trade and purchasing public with the Petitioner.

5. Registrant's mark ECO TOOSH is, in its appearance, sound and overall commercial impression, confusingly similar to Petitioner's mark. The goods of the Registrant are related and/or identical to the various services of Petitioner as described in paragraph 1 herein, and are likely to move within the same channels of trade and be purchased and/or used by the same class of purchaser so that Registrant's mark is

likely, when used in association with the goods of Registrant, to cause confusion or to deceive purchasers in the mistaken belief that the goods of Registrant emanate from, are offered for sale, or are provided and/or sold by Petitioner or under Petitioner's approval, sponsorship or control, all to the great damage of Petitioner.

6. Petitioner believes that Registrant's selection of the mark ECO TOOSH may take advantage of the nationwide reputation of Petitioner and its mark TOOSH, and may take advantage of the goodwill of Petitioner gained by extensive and persistent advertising and expenditures of large sums of money therefore, and if continued in commerce, will be likely to confuse, mislead or deceive the trade and members of the public in suggesting to them that Registrant's mark identifies services and/or goods sold, sponsored or approved by Petitioner or to suggest falsely a trade connection between Petitioner and Registrant.

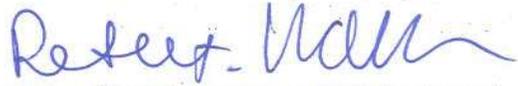
7. If the specified goods and/or services of Registrant are inferior in quality, there will be irreparable injury to Petitioner's valuable goodwill and its mark. Furthermore, the use and registration of the mark ECO TOOSH will dilute the distinctive character of Petitioner's valuable trademark, TOOSH.

WHEREFORE, Petitioner, by and through its counsel, respectfully requests that the mark sought to be registered by Registrant be refused and that a Notice of Opposition be sustained.

Please recognize William H. Cox, William B. Randolph and Peter J. Vranum of the firm of Gordon, Herlands, Randolph & Cox LLP, all members of the Bar of the State of New York, 355 Lexington Avenue, New York, New York 10017, as attorneys for Petitioner.

Respectfully submitted,

GORDON, HERLANDS,
RANDOLPH & COX LLP



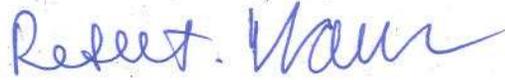
Peter J. Vranum, Esq.
Attorneys for Petitioner
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New York, New York 10017
(212) 986-1200

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing Petitioner's Petition for Cancellation to be served by First Class mail, postage prepaid, on October 31, 2013, on:

Frank P. Presta, Esq.
Nixon & Vanderhye
901 North Glebe Road, 11th Floor
Arlington, VA 22203

Geraldini Jacopo
Via Vivaio, 4
I-20100 Milano MI
ITALY



Peter J. Vranum