

ESTTA Tracking number: **ESTTA573894**

Filing date: **12/02/2013**

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	Tapper's Fine Jewelry, Inc.		
Entity	Corporation	Citizenship	Michigan
Address	6337 Orchard Lake Road West Bloomfield, MI 48322 UNITED STATES		

Attorney information	Kenneth I. Kohn Kohn & Associates PLLC 30500 Northwestern Highway Suite 410 Farmington Hills, MI 48334 UNITED STATES k.kohn@kohnandassociates.com, k.saperstein@kohnandassociates.com, s.fox@kohnandassociates.com, mail@kohnandassociates.com Phone:248-539-5050
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### Registration Subject to Cancellation

Registration No	3450842	Registration date	06/17/2008
Registrant	Szul Jewelry, Inc. 12 E 46th Street Suite 3 East New York, NY 10017 NY		

### Goods/Services Subject to Cancellation

Class 014. First Use: 2004/01/00 First Use In Commerce: 2004/01/00 All goods and services in the class are cancelled, namely: Jewelry, Diamonds, Gemstones
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Related Proceedings	Petitioner's trademark application SN 85/854,600
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Attachments	3189-8 Tapper's Cancellation Petition.pdf(41353 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	/Kenneth I. Kohn/
Name	Kenneth I. Kohn
Date	12/02/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 3,450,842

For the mark: **Rock Her World**

Date registered: June 17, 2008

Tapper's Fine Jewelry, Inc.,  
Petitioner

v.

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

Szul Jewelry, Inc.  
Respondent

PETITION TO CANCEL

1. Petitioner, Tapper's Fine Jewelry, Inc., is a Michigan corporation with its principal place of business at 6337 Orchard Lake Road, West Bloomfield, Michigan, and is the owner of U.S. Trademark Application Serial No. 85/854,600 for the mark, ROCK HER WORLD, in connection with which Petitioner sells proprietary diamonds and diamond jewelry from its various retail establishments. Petitioner believes it is being damaged by the above-identified Registration because on June 5, 2013, the Examiner for Petitioner's U.S. Trademark Application Serial No. 85/854,600 cited Respondent's Registration as a basis under Trademark Act Section 2 (d) to deny registration to Petitioner's Application and, accordingly, Petitioner hereby petitions to cancel same.

2. To the best of Petitioner's knowledge, the name and address of the current owner of the Registration is Szul Jewelry, Inc., 12 East 46th Street, Suite 3 East, New York, NY 10017. Petitioner's ground for cancellation is based on abandonment.

3. Respondent has sold jewelry exclusively on line at the web site [www.szul.com](http://www.szul.com).

4. On November 26, 2007, Respondent launched a racy "ROCK HER WORLD" YouTube video featuring jewelry under the mark ROCK HER WORLD, a model and a sexy story line that was unavailable for viewing by minors: [http://www.youtube.com/watch?v=BreNK\\_BOsEY](http://www.youtube.com/watch?v=BreNK_BOsEY).

5. On January 3, 2008, the model featured in the video filed a \$5 million lawsuit against Respondent, claiming that the video depicted her in a pornographic way without her consent. See Szul Jewelry, Inc. v. Q2 Entm't & Mitchell Goldman, No. 0604277/2007, 2008 WL 2157893 (N.Y. Sup. Ct.)

6. The lawsuit has since been settled and the court ordered the record and settlement filed under seal.

7. Based on a search on [http://web.archive.org/web/\\*/http://www.szul.com](http://web.archive.org/web/*/http://www.szul.com) and on information and belief, as a result of the above-identified lawsuit and its associated settlement, Respondent has not used the ROCK HER WORLD mark in connection with jewelry or otherwise for a period of at least three years and Respondent has no intent to resume said use. On October 18, 2013, a customer service representative answered the Szul phone line at 1-800-332-4382 and stated that Szul no longer sells ROCK HER WORLD jewelry. In fact, Respondent's web site has not been operational since August of this year.

8. Petitioner has been and will continue to be damaged by continuance of said registration.

WHEREFORE, Petitioner prays that Registration No. 3,450,842 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner hereby appoints Kohn & Associates PLLC, Kenneth I. Kohn – Reg. No. 30955 (USPTO), to act as attorneys for Petitioner herein, with full power to prosecute said Petition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Petition for Cancellation.

Respectfully submitted,

/Kenneth I. Kohn/  
Kenneth I. Kohn – Reg No 30955  
Kohn & Associates, PLLC  
Attorneys for Tapper's Fine Jewelry Inc.  
30500 Northwestern Highway  
Farmington Hills, MI 48334  
Telephone: (248) 539-5050  
Email: [k.kohn@kohnandassociates.com](mailto:k.kohn@kohnandassociates.com)  
Fax: (248) 539-5055

Date: December 2, 2013

Proof of Service

I, Kimberly Saperstein, being employed by the law firm Kohn & Associates, PLLC, confirm that I have mailed the above Petition to Cancel to Szul Jewelry, Inc., at the address 12 East 46th Street, Suite 3 East, New York, NY 10017, and to its attorney, Brian Gibbon, 3936 South Semoran Boulevard, Suite 330, Orlando, FL 32822, in envelopes with appropriate postage for first class mail on this 2<sup>nd</sup> day of December 2013.

/Kimberly Saperstein/  
Kimberly Saperstein