

ESTTA Tracking number: **ESTTA587050**

Filing date: **02/12/2014**

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	Holly D Brooks		
Entity	Individual	Citizenship	UNITED STATES
Address	305 Timber Lane East Peoria, IL 61611 UNITED STATES		

Attorney information	James G. Fahey Sorling Northrup 1 N Old State Capitol Plaza Suite 200 Springfield, IL 62701 UNITED STATES jgfahey@sorlinglaw.com Phone:2175441144		
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Registration Subject to Cancellation

Registration No	4437758	Registration date	11/19/2013
Registrant	Allicia Mogavero 124 Bedford Drive Wakefield, RI 02879 USX		

Goods/Services Subject to Cancellation

Class 014. First Use: 2012/06/27 First Use In Commerce: 2012/06/27 All goods and services in the class are cancelled, namely: Beads for making jewelry; Beads for use in the manufacture of jewelry; Bracelets; Brooches; Cameos; Charms; Charms for collar jewelry and bracelet; Jewelry; Jewelry brooches; Jewelry for attachment to clothing; Jewelry in the nature of armbands; Jewelry making kits; Jewelry, namely, amulets; Jewelry, namely, anklets; Jewelry, namely, arm cuffs; Women's jewelry

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	Common law priority; first use date 10/15/2007

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Breast Milk Pendant		

Goods/Services	Jewelry namely, pendants, bracelets, lockets, earrings. Jewelry kits for making breast milk pendants and jewelry.
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Attachments	Petition for Cancellation.pdf(12374 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	/James G. Fahey/
Name	James G. Fahey
Date	02/12/2014

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

In the matter of trademark Registration Number:	4437758
For Mark:	Breast Milk Pendant
Date Registered:	November 19, 2013

PETITION FOR CANCEL

Holly D. Brooks, d/b/a Hollyday Designs
305 Timber Lane
East Peoria, IL 61611

To the best of petitioner's knowledge, the name and address of the current owner of the registration is Alicia Mogavero.

The above-identified petitioner believes that she will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner, Holly D. Brooks, d/b/a Hollyday Designs has used the "Breast Milk Pendant" trademark nationally in association with the sale of jewelry since October 2007. Supplemental Registration of the mark "Breast Milk Pendant" with the United States Patent and Trademark Office (Registration No.: 4437758) came to Petitioner's attention due to a "Listing Deactivation Notice for Infringement" our Petitioner received from Etsy®, by Ms. Mogavero.

2. Ms. Mogavero's first use in commerce according to her Supplemental Registration was June 27, 2012. Ms. Mogavero has tortiously interfered with our client's contractual rights and business expectations by falsely informing Etsy® and other web site operators that she enjoys an exclusive and/or a superior legal right to use the "Breast Milk Pendant" mark in commerce as compared to our client based on her Supplemental Registration.

3. On January 15, 2014, Sorling Northrup, Petitioner's attorney, sent Ms. Mogavero a Cease and Desist letter requesting that Ms. Mogavero file a Notice of Cancellation and cease contacting Etsy and other web site operators regarding Hollyday Designs and the use of "Breast Milk Pendant." Ms. Mogavero through her counsel, Uwe Benjamin, has refused to cancel her mark, and further demanded that Petitioner, cease and desist using the TM in conjunction with the mark "Breast Milk Pendant."

Based on the above, Holly Brooks, d/b/a Hollyday Designs believes she will be and has been damaged by the above registered mark and its owner, Allicia Mogavero.

HOLLY D. BROOKS, d/b/a HOLLY DAY
DESIGNS

By: s/James G. Fahey/
One of its Attorneys

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