

ESTTA Tracking number: **ESTTA598213**

Filing date: **04/11/2014**

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 | ROB, Inc. | | |
| Entity | Corporation | Citizenship | California |
| Address | 6760 Foster Bridge Blvd. Bell Gardens, CA 90201 UNITED STATES | | |

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| Attorney information | Michael Doland Doland & Fraade 12424 Wilshire Blvd. Suite 900 Los Angeles, CA 90025 UNITED STATES doland@dolandlaw.com Phone:310-478-1000 |
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Registration Subject to Cancellation

| | | | |
|-----------------|---|-------------------|------------|
| Registration No | 4423079 | Registration date | 10/22/2013 |
| Registrant | Dabes, Sam 2flr Brooklyn, NY 11209 USX | | |

Goods/Services Subject to Cancellation

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| Class 025. First Use: 2013/04/25 First Use In Commerce: 2013/04/25 All goods and services in the class are cancelled, namely: Boots; Hats; Hooded sweat shirts; Jackets; Jeans; Leather jackets; Pants; Shoes; Sweat shirts; Sweatpants; T-shirts |
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Grounds for Cancellation

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| Deceptiveness | Trademark Act section 2(a) |
| False suggestion of a connection | Trademark Act section 2(a) |
| <i>Torres v. Cantine Torresella S.r.l.Fraud</i> | 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986) |
| Priority and likelihood of confusion | Trademark Act section 2(d) |

Marks Cited by Petitioner as Basis for Cancellation

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3138101 | Application Date | 02/09/2005 |
| Registration Date | 09/05/2006 | Foreign Priority Date | NONE |
| Word Mark | ROBIN'S JEAN REAL AMERICAN JEAN'S MADE IN USA | | |

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|---------------------|--|
| Design Mark |  |
| Description of Mark | The mark consists of Wings with the mark written underneath in a scroll. |
| Goods/Services | Class 025. First use: First Use: 2005/01/20 First Use In Commerce: 2005/01/20 CLOTHING, NAMELY, PANTS, SHIRTS, UNDERGARMENTS, VESTS, JACKETS AND COATS, NECKWEAR |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3721849 | Application Date | 05/11/2009 |
| Registration Date | 12/08/2009 | Foreign Priority Date | NONE |

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|-----------|-----------------------------------|
| Word Mark | ROBIN'S JEAN REAL AMERICAN JEAN'S |
|-----------|-----------------------------------|

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|---------------------|---|
| Design Mark |  |
| Description of Mark | The mark consists of two wings above a scroll with the words "Robin's Jean" in it and the words "Real American Jean's" written under. |
| Goods/Services | Class 025. First use: First Use: 2009/05/08 First Use In Commerce: 2009/05/08 Shoes |

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| Attachments | 78563977#TMSN.jpeg(bytes) 77734063#TMSN.jpeg(bytes) SHORT STATEMENT FOR CANCELLATION PROCEEDING.pdf(177431 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 | /Doland/ |
| Name | Michael Doland |

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|------|------------|
| Date | 04/11/2014 |
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SHORT STATEMENT FOR CANCELLATION PROCEEDING

ROB, INC. V. SAM DABES

On or about March 4, 2014 the attorney for Rob, Inc. (Michael Doland of Doland & Fraade) was contacted by Attorney Suzanne McCaffery (of Follick & Bessich) who advised that

- 1) Her client was Robin NY, Inc. owns the mark Robins premium.
- 2) A shipment of her clients goods were seized by Customs and Border Protection because "the manufacturer marked the goods with variations of the "Robins Jean" logo instead of the "Robins premium" [WORD] mark.

After the 2006 USPTO registration, it filed its registration with US Customs since all goods (until 2014, for shoes only) were manufactured by Petitioner at Los angeles, California. Petitioner commenced foreign registration of its mark for apparel in IC 25.

Searching the internet using Google, Yahoo, Bing (Microsoft), Linkedin and Facebook there is one single listing nationwide for a Sam Dabes with no relationship to the garment industry. Petitioner is informed and believes and thereon alleges there is no "Sam Dabes" who filed a USPTO application for Robins premium.

Searching the internet using Google, Yahoo, Bing (Microsoft), Linkedin and Facebook there is no listing for "robins premium".

Petitioner is informed and believes that there is no product whatsoever named "robins premium" and the explanation that a Chinese manufacturer put "Robin's Jean" USPTO logo on "robins premium" jeans and hoodies is absurd and a fabrication.

Contrary to the representation of Ms. McCaffery, Robin's NY, Inc. is not the owner of the "robins premium" mark.

Plaintiff is informed and believes and thereon alleges that the allegation of the products in use in commerce was fraudulent and that no goods have been sold prior to registration.

Plaintiff is informed and believes and thereon alleges that "Robins Jean" and "robins premium" are deceptively similar as to the products where the registrations overlap (e.g. jeans), and suggest an affiliation between Petitioner and defendant on the products where the registrations do not overlap. By using lower case letters for the registration of "robins premium" it suggests that it is the premium line of Robin's Jean which is already in the price range of premium denim jeans manufacturers.