

ESTTA Tracking number: **ESTTA598022**

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	Benchmark Components, Inc., D/B/A Wisconsin Bench		
Entity	Corporation	Citizenship	Wisconsin
Address	507 E. Grant St. Thorp, WI 54771-9662 UNITED STATES		

Attorney information	Craig A. Fieschko Dewitt Ross & Stevens S.C. 2 E. Mifflin Street, Suite 600 Madison, WI 53703-2865 UNITED STATES cftm@dewittross.com Phone:6083956722		
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Registration Subject to Cancellation

Registration No	4287176	Registration date	02/12/2013
Registrant	Wohnbedarf WB AG Talstrasse 11 CHX CHX		

Goods/Services Subject to Cancellation

Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Lighting apparatus, namely, Standing Lamps, Desk Lamps, Office Lighting; electric lamps
Class 014. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Goods of precious metals, namely, statues and sculptures made of precious metals, small jewelry boxes made of precious metals and decorative boxes made of precious metal
Class 020. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Office furniture, namely, mirrors and goods, not included in other classes, of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, and substitutes for all these materials, or of plastics, namely, Cross Frame Chair, 3 Legged Chair, Stool, Square/Circular Table with Linoleum Top, 3 Legged Table with Linoleum top High and Low versions, Ladders, Picture Frames, Beds, Bedside Tables, Lamps
Class 021. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Containers for the household, glass containers, namely, Glass Bowls and Containers, Porcelain Bowls and Containers, Plates, Mugs, Cups, Saucers, Tea and Coffeepots, vases, bowls; household trays for domestic use
Class 024. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Decorative fabrics of textile, namely, curtains made of textile fabrics, bed and table linens, bed blankets, pillow covers, individual place

mats made of textile, place mats of textile material, table linens, namely, napkins, coasters, place mats and table-cloths
Class 027. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Rugs, floor coverings, tapestries and wall hangings not of textile
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Interior architecture and design; industrial design; furnishing advice, particularly advice, design and organization services relating to furnishings for the office, the home, or similar; technical project studies in the field of interior design and home decor

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

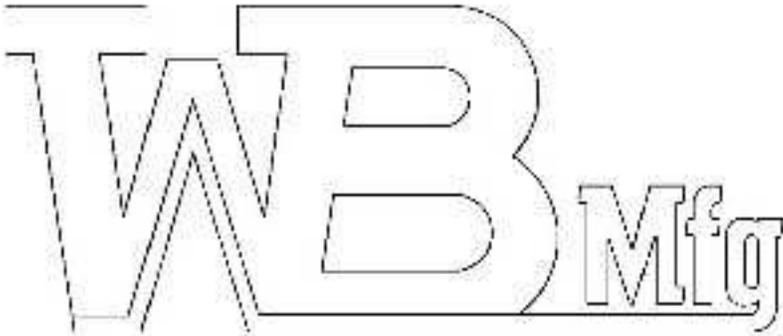
Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3860310	Application Date	03/03/2010
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	WISCONSIN BENCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 1999/07/00 First Use In Commerce: 1999/07/00 Tabletops and bench tops		
U.S. Application No.	85870657	Application Date	03/08/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WB		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 020. First use: First Use: 2013/03/08 First Use In Commerce: 2013/03/08 Furniture, namely, tables, lecterns, desks, chairs, stools, cabinets, wardrobes, hutches, lockers, and shelving; tabletops and bench tops

U.S. Application No.	85870698	Application Date	03/08/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	WB MFG
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Design Mark	
Description of Mark	The mark consists of the stylized wording "WB MFG", with "WB" larger than "MFG," and with the right arm of the "W" forming the left side of the "B", and with the tail of the "G" extending beneath theremainder of the mark.
Goods/Services	Class 020. First use: First Use: 2013/03/08 First Use In Commerce: 2013/03/08 Furniture, namely, tables, lecterns, desks, chairs, stools, cabinets, wardrobes, hutches, lockers, and shelving; tabletops and bench tops

Attachments	77949543#TMSN.jpeg(bytes) 85870657#TMSN.jpeg(bytes) 85870698#TMSN.jpeg(bytes) TTAB--140411--Petition_for_Cancellation.pdf(838056 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	/craigfieschko/
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Name	Craig A. Fieschko
Date	04/11/2014

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

In the Matter of U.S. Registration 4287176
Mark: **wb form**

Benchmark Components, Inc., Petitioner, v. Wohnbedarf WB AG, Registrant.	Cancellation # _____
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PETITION FOR CANCELLATION
(37 CFR §2.111 *et seq.*)

The Trademark Assistance Center
Madison East, Concourse level Room C55
600 Dulany Street
Alexandria, VA 22314

Petitioner Benchmark Components, Inc., a Wisconsin Corporation doing business as “Wisconsin Bench” and having a business address at 507 E. Grant St., Thorp, WI 54771-9662, will be damaged if the mark **wb form**, as shown in the above-noted registration, remains registered. Therefore, Petitioner petitions to cancel the registration pursuant to Section 14 of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 USC §1064. The grounds for cancellation are as follows:

CERTIFICATE OF MAILING / CERTIFICATE OF SERVICE

I hereby certify that in accordance with 37 CFR §§1.8 and 2.119, as of the date set out below, this correspondence has been deposited in its entirety with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Eric T. Fingerhut, Dykema Gossett PLLC, 1300 I Street, N.W., Suite 300 West, Washington, DC 20005 and is additionally sent via e-mail to ipmail@dykema.com.

Signature: _____

Marcia A. Layton

Date: _____

11 April 2014

1. Petitioner is the owner of:
 - U.S. Registration 3860310 (Petitioner's Registration) for WISCONSIN BENCH, registered October 12, 2010, stating the date of first use of the mark (in commerce or otherwise) of at least as early as July, 1999 in International Class 20 for "tabletops and bench tops";
 - Petitioner's Pending Applications:
 - U.S. Appl'n. 85870657 for WB, which seeks registration in International Class 20 for "Furniture, namely, tables, lecterns, desks, chairs, stools, cabinets, wardrobes, hutches, lockers, and shelving; tabletops and bench tops";
 - U.S. Appl'n. 85870698 for the design mark , which seeks registration in International Class 20 for "Furniture, namely, tables, lecterns, desks, chairs, stools, cabinets, wardrobes, hutches, lockers, and shelving; tabletops and bench tops."

2. The WB mark, and the WB design element of the design mark , have been in use since at least March 3, 2010, the application filing date for the mark WISCONSIN BENCH, as can be seen in the specimens in the files of the U.S. Patent and Trademark Office (USPTO) for U.S. Registration 3860310.

4. Registrant Wohnbedarf WB AG, a Swiss company, owns a registration for the mark **wb form**, Registration No. 4287176 (the "Registration"), for goods including:

- "Office furniture, namely, mirrors and goods, not included in other classes, of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, and substitutes for all these materials, or of plastics, namely, Cross Frame Chair, 3 Legged Chair, Stool, Square/Circular Table with Linoleum Top, 3 Legged Table with Linoleum top High and Low versions, Ladders, Picture Frames, Beds, Bedside Tables, Lamps" in International Class 20;

- "Lighting apparatus, namely, Standing Lamps, Desk Lamps, Office Lighting; electric lamps" in International Class 11;
- "Goods of precious metals, namely, statues and sculptures made of precious metals, small jewelry boxes made of precious metals and decorative boxes made of precious metal" in International Class 14;
- "Containers for the household, glass containers, namely, Glass Bowls and Containers, Porcelain Bowls and Containers, Plates, Mugs, Cups, Saucers, Tea and Coffeepots, vases, bowls; household trays for domestic use" in International Class 21;
- "Decorative fabrics of textile, namely, curtains made of textile fabrics, bed and table linens, bed blankets, pillow covers, individual place mats made of textile, place mats of textile material, table linens, namely, napkins, coasters, place mats and table-cloths" in International Class 24;
- "Rugs, floor coverings, tapestries and wall hangings not of textile" in International Class 27;
- "Interior architecture and design; industrial design; furnishing advice, particularly advice, design and organization services relating to furnishings for the office, the home, or similar; technical project studies in the field of interior design and home decor" in International Class 42.

5. Registrant's aforesaid U.S. Registration 4287176 for **wb form** mark was registered with the USPTO on February 12, 2013 under Section 66(a), 15 USC § 1141f, based on Int'l. Reg. No. 1076781, with a priority date of October 12, 2010, a date subsequent to the March 3, 2010 date noted in Paragraph 3 above.

6. On June 22, 2013, the USPTO issued Office Actions against Petitioner's Pending Applications, thereby refusing to register Petitioner's marks WB and , citing Registrant's Registration on the grounds that a likelihood of confusion exists between the parties' respective marks.

7. The USPTO issued further Office Actions on January 10, 2014, making final the refusal to register Petitioner's Pending Applications.

8. Upon information and belief, at all relevant times, Registrant was not and is not actually using its mark in commerce in the United States in connection with all of the goods and services set forth in its Registration.

9. Upon information and belief, Registrant has failed to use its mark in commerce in the United States in connection with all of the goods and services set forth in its Registration, and/or has discontinued use of its mark in the United States in connection with all of the goods and services set forth in its Registration for a considerable period of time with no intent to resume said use as required by applicable law.

10. Petitioner seeks cancellation of the Registration as per 15 USC § 1064(1) because Registrant has abandoned the mark shown in the Registration and is no longer entitled to maintain the Registration, at least with respect to some of the goods and services enumerated in the Registration.

11. Petitioner also seeks cancellation of the Registration as per 15 USC §§ 1064(1) and 1052(d) because the mark shown in the Registration is likely to cause confusion, to deceive and to cause mistake among consumers, at least insofar as the mark is used on goods such as those listed in the Registration in International Class 20, and the Petitioner has priority of use in its WB mark and in the WB design element of the design mark .

12. Based upon the foregoing, Petitioner has been and will continue to be harmed and damaged by Registrant's Registration if the Registration is not cancelled as requested by Petitioner herein, because such continued registration will prevent Petitioner from registering the marks shown in Petitioner's Pending Applications, and such continued registration will accord Registrant the benefits of registration, to the detriment of Petitioner.

Owing to the foregoing, Petitioner requests that Registrant's registration of the mark **wb form** be canceled in whole or in part, and particularly in connection with the goods identified in International Class 20.

This Petition for Cancellation is accompanied by the fee required by 37 CFR §2.6(a)(16) (\$2,100). In the event the accompanying payment is insufficient for the fee, the Commissioner is authorized to charge any underpayment or credit any overpayment to deposit account 18-2055.

Petitioner hereby appoints the undersigned law firm to act as attorneys for Petitioner herein, with full power to prosecute said Petition, to transact all relevant business with the U.S. Patent and Trademark Office and in the United States Courts, and to receive all official communications in connection with this Petition to Cancel.

By Petitioner's counsel,

/craigfieschko/

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