

ESTTA Tracking number: **ESTTA631737**

Filing date: **10/08/2014**

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	Hot Topic Merchandising, Inc.		
Entity	Corporation	Citizenship	CA
Address	18305 E. San Jose Avenue Industry, CA 91748 UNITED STATES		

Correspondence information	Lu Williams Trademark Administrator Hot Topic Merchandising, Inc. 18305 E. San Jose Avenue Industry, CA 91748 UNITED STATES lwilliams@hottopic.com Phone:626-839-4681
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Registration Subject to Cancellation

Registration No	4447800	Registration date	12/10/2013
Registrant	Cline, Christopher Robert 2336 Northumbria Drive Sanford, FL 32771 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2011/03/01 First Use In Commerce: 2011/03/01 All goods and services in the class are cancelled, namely: Hooded sweat shirts; Long-sleeved shirts; Open-necked shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleep shirts; Sweat shirts; T-shirts; T-shirts for casual outings; Tee shirts; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses

Grounds for Cancellation

Other	The mark is not being used in a trademark manner.
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Attachments	Petition to Cancel.pdf(1196632 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	/Lu Williams/
Name	Lu Williams
Date	10/08/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Hot Topic Merchandising, Inc.)	
)	
)	Cancellation No. _____
Petitioner,)	Mark: MAYBE PARTYING WILL HELP
)	
v.)	
)	
Christopher Cline)	
)	
)	
Registrant.)	
)	

PETITION TO CANCEL

1. Hot Topic Merchandising, Inc., a corporation of California, with a principal business address of 18305 E. San Jose Avenue, City of Industry, CALIFORNIA 91748 (hereinafter "Hot Topic") asserts that it is and will continue to be damaged by registration of the mark MAYBE PARTYING WILL HELP registered under Reg. No. 4,447,800, and accordingly, for the reasons set forth herein, petitions to cancel registration of the same.
2. Upon information and belief, Christopher Cline, an individual who is a citizen of the United States with an address of 2336 Northumbria Drive, Sanford, FLORIDA 32771 (hereinafter "Cline") is the owner of U.S. Reg. No. 4,447,800 (hereinafter the '800 Registration).
3. Hot Topic has used the phrase "maybe partying will help" decoratively on articles of clothing.

4. In an email dated September 25, 2014, Cline has asserted his '800 Registration against Hot Topic claiming that Hot Topic's use of "maybe partying will help" infringes the '800 Registration. See Exhibit A.
5. Cline applied to register the mark MAYBE PARTYING WILL HELP on April 30, 2013 and claimed use of the mark since March 1, 2011 for "Hooded sweat shirts; Long-sleeved shirts; Open-necked shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleep shirts; Sweat shirts; T-shirts; T-shirts for casual outings; Tee shirts; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses" in Class 25. This application matured into the '800 Registration on December 10, 2013.
6. Upon information and belief, Cline had not used MAYBE PARTYING WILL HELP as a valid trademark on any of the goods listed in the '800 Registration at the time he applied to register the MAYBE PARTYING WILL HELP mark, and has not used MAYBE PARTYING WILL HELP as a valid trademark at any time.
7. Accordingly, the '800 Registration should be cancelled as void *ab initio* for Cline's non-use of MAYBE PARTYING WILL HELP as a valid trademark in connection with any of the goods listed in the '800 Registration.
8. Alternatively, upon information and belief, to the extent Cline ever made lawful trademark use of MAYBE PARTYING WILL HELP as a valid trademark in connection with the goods listed in the '800 Registration, Cline has ceased using the mark in connection with those goods and there is no evidence of any intent to resume use of the mark in connection with those goods in U.S. commerce.

9. As a further basis, upon and information and belief, Cline fraudulently declared under oath that the he was using all of the goods identified in the '800 Registration despite the fact that Cline had not made use of the MAYBE PARTYING WILL HELP trademark on all of the goods identified in the '800 Registration.
10. Upon information and belief, Cline fraudulently alleged actual use of the MAYBE PARTYING WILL HELP mark in commerce where no such use has been made, including, specifically, on women's clothing, namely, shirts, dresses, skirts, blouses and possibly all of the goods recited in the '800 Registration.
11. Cline made such statements with the intention to deceive the Trademark Office.
12. Without Cline's fraudulent statements, the '800 Registration would not have been granted by the Trademark Office.
13. Upon information and belief, Cline has a history of filing applications tainted by deceptive and/or fraudulent statements which is clear from Cline's registration for HOUSE MUSIC LOVES ME BITCH registered under Reg. No. 4,447,815 which recites, "Hooded sweat shirts; Long-sleeved shirts; Night shirts; Shirt fronts; Shirts; Shirts and short-sleeved shirts; ***Shirts for infants, babies, toddlers and children*** {emphasis added}; Shirts for suits; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleep shirts; Sweat shirts; T-shirts; T-shirts for men, women and children consisting of words, phrases and/or graphics which are suitable for social events, namely, concerts, parties and casual encounters; Tee shirts; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses; Yoga shirts."
14. Hot Topic is being damaged by the '800 Registration.

15. Hot Topic's business will be impaired by the continued registration of the '800
Registration.

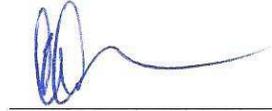
16. The appropriate fee is being paid herewith.

WHEREFORE, Hot Topic respectfully requests that the '800 Registration be cancelled.

Respectfully submitted,

Hot Topic Merchandising, Inc.

Date: ^{Oct} September 3, 2014



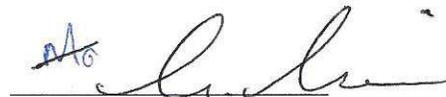
Name: LU WILLIAMS

Hot Topic Merchandising, Inc.
18305 E. San Jose Avenue
City of Industry, CA 91748
Phone: 626-899-4681
Fax: _____

CERTIFICATE OF SERVICE

On this 3rd day of September 2014, a true and correct copy of this Petition to Cancel is being sent via first class mail, postage prepaid to:

Christopher Cline
2336 Northumbria Drive
Sanford, FLORIDA 32771



Name: Marilyn Medina