

ESTTA Tracking number: **ESTTA641037**

Filing date: **11/25/2014**

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	Quality Bicycle Products, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	6400 West 105th Street Bloomington, MN 55438 UNITED STATES		

Attorney information	Kristine Boylan Briggs and Morgan, P.A. 2200 IDS Center 80 South 8th Street Minneapolis, MN 55402 UNITED STATES kboylan@briggs.com, kwollan@briggs.com, IP@Briggs.com Phone: 612-977-8788		
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**Registrations Subject to Cancellation**

Registration No	4496120	Registration date	03/11/2014
Registrant	MIDDLEBROOK DESIGN LLC 121 E FRONT ST SUITE 105 TRAVERSE CITY, MI 49684 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2013/04/19 First Use In Commerce: 2013/04/19 All goods and services in the class are cancelled, namely: Headwear; Hooded sweatshirts; T-shirts
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**Grounds for Cancellation**

The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14		
Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	4414967	Registration date	10/08/2013
Registrant	MIDDLEBROOK DESIGN LLC 121 E FRONT ST SUITE 105 TRAVERSE CITY, MI 49684 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2013/03/10 First Use In Commerce: 2013/04/19 All goods and services in the class are cancelled, namely: Headwear; Hooded sweatshirts; T-shirts
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## Grounds for Cancellation

The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	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.	4268136	Application Date	05/15/2012
Registration Date	01/01/2013	Foreign Priority Date	NONE
Word Mark	45NRTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2011/10/01 First Use In Commerce: 2011/10/01 Bicycle parts, namely, tires		

U.S. Application No.	86232330	Application Date	03/26/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	45NRTH		
Design Mark			
Description of Mark	The mark consists of The words '45NRTH' followed by a small triangle.		
Goods/Services	Class 025. First use: First Use: 2012/03/26 First Use In Commerce: 2012/03/26 Balaclavas; Bib shorts; Footwear; Gloves; Hats; Insoles; Jackets; Knickers; Pants; Shirts; Socks		

U.S. Application No.	86232342	Application Date	03/26/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	45NRTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2012/03/26 First Use In Commerce: 2012/03/26 Athletic shirts; Balaclavas; Bib shorts; Boots; Footwear; Gaiters; Gloves; Hats; Insoles; Jackets; Pants; Short-sleevedshirts		

Attachments	85625684#TMSN.png( bytes ) 86232330#TMSN.png( bytes ) 86232342#TMSN.png( bytes ) Quality Bicycle Consolidated Petition to Cancel.pdf(2888129 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	/kristine boylan/
Name	Kristine Boylan
Date	11/25/2014

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

In the Matter of Registration Nos. 4496120 and 4414967

For the Marks  and **45NORTH**

Registered on October 8, 2013 and March 11, 2014

QUALITY BICYCLE PRODUCTS, INC., :

Petitioner, :

v. :

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

MIDDLEBROOK DESIGN LLC  
dba LOVE TRAVERSE CITY, :

Registrant. :

**CONSOLIDATED PETITION TO CANCEL**

Quality Bicycle Products, Inc., (hereinafter “Petitioner”), a corporation organized under the laws of Minnesota, located at and doing business at 6400 West 105th Street, Bloomington, Minnesota 55438, is and will continue to be damaged by the above identified Registrations (hereinafter “Registrations”), in the name of assignee Middlebrook Design LLC dba Love Traverse City (“hereinafter “Registrant”), with a last known address of 121 Front Street, Suite 105, Traverse City, Michigan 49684, and hereby petitions to cancel the same under 15 U.S.C. §1064.

As grounds therefore it is alleged:

**COUNT ONE**

1. Prior to the Registrant’s claimed date of its first offering in commerce of the goods covered by the Registrations, Petitioner has been engaged in the sale in interstate commerce of clothing, footwear and headwear bearing the mark 45NORTH, along and in connection with its other house marks.

2. As a result of Petitioner's widespread use and expenditure of resources to promote the goods and services offered under its 45NORTH mark, as well as Petitioner's dedication to high quality goods, Petitioner has acquired significant goodwill in and to the mark. Petitioner's 45NORTH mark has come to represent the highest quality goods as used in connection with those goods, and consumers have come to count on Petitioner's 45NORTH mark to represent superior clothing, footwear, and headwear complimentary to its bicycle parts and bicycling gear products.

3. Petitioner is the owner of U.S. Trademark Registration No. 4268136 (45NORTH) filed May 15, 2012 and registered on the Principal Register on January 1, 2013, for use in connection with "bicycle parts, namely tires" in International Class 12. The registration is valid and subsisting. A copy of the certificate of Registration is attached as Petitioner's Exhibit A.

4. The application that matured into Registrant's Registration No. 4496120 for the mark  was filed on February 26, 2013 and is based on Registrant's contended use of the mark in commerce as early as April 19, 2013 for use in connection with headgear, hooded sweatshirts and t-shirts in International Class 25.

5. The application that matured into Registrant's Registration No. 4414967 for the mark **45NORTH** was filed on May 10, 2013, and is based on Registrant's contended use of the mark in commerce as early as April 19, 2013, for use in connection with headwear, hooded sweatshirts and t-shirts in International Class 25.

6. The Registrant's  and **45NORTH** marks are nearly identical to Petitioner's 45NORTH trademarks and Registration; and the goods are identical or so similar or related to the goods sold by Petitioner so that confusion is likely.

7. Upon information and belief, the Petitioner's goods are offered and promoted through the same channels of trade and use the same media as Registrant's goods.

8. Upon information and belief, the Petitioner's goods are sold through the same channels to the same customers that buy Registrant's products.

9. Registrant's registration of  and **45<sup>NORTH</sup>** and Petitioner's 45NRTH trademarks and Registrant's Registration are confusingly similar in sound, sight and overall commercial impression and the goods are similar, so that one would reasonably expect them to emanate from Petitioner. The contemporaneous use thereof is likely to cause confusion, mistake or deception because the purchasing public is likely to believe the Registrant as a company and/or Registrant's goods emanate from or are in some way associated or connected with, or sponsored, licensed or authorized by Petitioner, all to the damage of Petitioner. Accordingly, Registrant's Registrations should be cancelled under Section 2(d) of the Lanham Act.

10. Registration Nos. 4496120 and 4414967 are less than five (5) years old, are not incontestable and are subject to cancellation under Section 2(d) as being likely to be confused with Petitioner's prior use of 45NRTH as a trademark. By reason of all of the foregoing, the Registrant possesses no valid rights in or to the said Registrations and the same are therefore subject to cancellation under Sections 14 and 24 of the Trademark Act of 1946 (15 U.S.C. §1064 and 1092).

WHEREFORE, Petitioner prays that this Consolidated Petition to Cancel be sustained and that Registration Nos. 4496120 and 4414967 –  and **45<sup>NORTH</sup>** – be cancelled.

The fee of \$600.00 as provided by Section 14 and 31 of the Trademark Act of 1946 is paid by deducting it from Petitioner's attorneys' deposit account number 023732.

Please recognize Kristine M. Boylan as a member of the Bar of the State of Minnesota, as its attorney to prosecute this Consolidated Petition to Cancel and to transact all business in the Patent and Trademark Office in connection herewith. Please address all communications to: Kristine M. Boylan, Briggs and Morgan, P.A. 2200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402.

Dated: November 25, 2014

Respectfully submitted:

By: /Kristine M. Boylan/  
Kristine M. Boylan (#284634)  
BRIGGS AND MORGAN, P.A.  
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**CO-COUNSEL:**

Matt Moore (#0168841)  
General Counsel  
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6400 West 105th Street  
Bloomington, MN 55438  
Telephone: (952) 941-9391

*Attorneys for Petitioner Quality Bicycle  
Products, Inc.*

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being filed electronically through on-line TTAB filing system, ESTTA on November 25, 2014.

Dated: November 25, 2014

By: /Kristine M. Boylan/  
Kristine M. Boylan (#284634)  
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Matt Moore (#0168841)  
General Counsel  
Quality Bicycle Products, Inc.  
6400 West 105th Street  
Bloomington, MN 55438  
Telephone: (952) 941-9391)

*Attorneys for Petitioner Quality Bicycle  
Products, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via regular U.S. Mail this 25th day of November, 2014 upon the following:

Lauren Beers Creighton  
Love Traverse City  
121 East Front Street, Suite 105  
Traverse City, MI 49684

Eric Misterovich  
Revision Legal, PLLC  
1101 Broad Street, Suite 315  
St. Joseph, MI 49085  
Telephone: (269) 281-3908  
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Dated: November 25, 2014

By:           /Kristine M. Boylan/            
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Matt Moore (#0168841)  
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***Attorneys for Petitioner Quality Bicycle  
Products, Inc.***

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

In the Matter of Registration Nos. 4496120 and 4414967

For the Marks  and **45NORTH**

Registered on October 8, 2013 and March 11, 2014

QUALITY BICYCLE PRODUCTS, INC.,

Petitioner,

v.

MIDDLEBROOK DESIGN LLC  
dba LOVE TRAVERSE CITY,

Registrant.

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

**PETITIONER'S EXHIBIT A**

United States of America  
United States Patent and Trademark Office



**Reg. No. 4,496,120**

**Registered Mar. 11, 2014**

**Int. Cl.: 25**

**TRADEMARK**

**PRINCIPAL REGISTER**

CREIGHTON LAUREN (UNITED STATES INDIVIDUAL)  
10300 DEERPATH S  
TRAVERSE CITY, MI 49685

FOR: HEADWEAR; HOODED SWEATSHIRTS; T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-19-2013; IN COMMERCE 4-19-2013.

THE MARK CONSISTS OF A SQUARE WITH A STYLIZED NUMBER "45" AND A DEGREE SYMBOL WITHIN A SMALLER RECTANGLE IN THE UPPER PORTION AND THE WORD "NORTH" IN THE LOWER PORTION.

SN 85-860,456, FILED 2-26-2013.

DAVID COLLIER, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***  
**What and When to File:**

*First Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

*Second Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***  
**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

United States of America  
United States Patent and Trademark Office

**45°NORTH**

**Reg. No. 4,414,967**

**Registered Oct. 8, 2013**

**Int. Cl.: 25**

**TRADEMARK**

**PRINCIPAL REGISTER**

LAUREN CREIGHTON (UNITED STATES INDIVIDUAL)  
10300 DEERPATH  
TRAVERSE CITY, MI 49685

FOR: HEADWEAR; HOODED SWEATSHIRTS; T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 3-10-2013; IN COMMERCE 4-19-2013.

THE MARK CONSISTS OF A STYLIZED NUMBER "45" WITH A DEGREE SYMBOL STYLISTICALLY INTEGRATED INTO THE NUMBER "5". FOLLOWED BY THE WORD NORTH, ALSO WITH STYLIZED TEXT. THE "O" IS LARGER AND PROTRUDES INTO THE "N" IN THE WORD NORTH. THE LITERAL ELEMENT OF THE MARK IS "45° NORTH".

SER. NO. 85-928,382, FILED 5-10-2013.

DAVID COLLIER, EXAMINING ATTORNEY



*Lisa Street Lee*

Deputy Director of the United States Patent and Trademark Office

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