

ESTTA Tracking number: **ESTTA643609**

Filing date: **12/10/2014**

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	Scott Jewelers Ltd.		
Entity	Corporation	Citizenship	New York
Address	28 School Street Glen Cove, NY 11542 UNITED STATES		

Attorney information	Barry H. Fishkin Phillips Nizer LLP 666 Fifth Avenue New York, NY 10103-0084 UNITED STATES bfishkin@phillipsnizer.com, jrichardson@phillipsnizer.com, hmintz@phillipsnizer.com Phone:212-977-9700
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Registration Subject to Cancellation

Registration No	3604469	Registration date	04/07/2009
Registrant	RICHLINE GROUP, INC. 115 SOUTH MACQUESTEN PARKWAY MOUNT VERNON, NY 10550 UNITED STATES		

Goods/Services Subject to Cancellation

Class 014. First Use: 2007/01/00 First Use In Commerce: 2007/01/00 All goods and services in the class are cancelled, namely: Jewelry; diamonds and precious and semi-precious gemstones
Class 035. First Use: 2007/01/00 First Use In Commerce: 2007/01/00 All goods and services in the class are cancelled, namely: Advertising services, for third parties, in connection with commercialization and sale of jewelry, creation of marketing tools designed to increase a client company's knowledge of customer needs and its competitors' products, pricing, advertising strategy and sales strategy, cooperative advertising and marketing and dissemination of advertising materials

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel - TWO .pdf(243961 bytes) Exhibit A - TWO.pdf(204447 bytes) Exhibit B - TWO BY LONDON.pdf(203574 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	/Barry H. Fishkin/
Name	Barry H. Fishkin
Date	12/10/2014

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

In the Matter of Registration No. 3,604,469
Of the Mark: TWO
Registrant: Andin International, Inc.
Assignee: Richline Group, Inc.

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SCOTT JEWELERS LTD., :
 : Cancellation No.:
 Petitioner,:
 :
 v. :
 :
 RICHLINE GROUP, INC., :
 :
 Respondent.:
----- X

PETITION TO CANCEL

Scott Jewelers Ltd. (“Petitioner”), by its attorneys, Phillips Nizer LLP, believing it has been and will continue to be damaged by the registration of the trademark TWO under Registration No. 3,604,469, registered to Andin International, Inc. on April 7, 2009, and assigned to Richline Group, Inc. (“Respondent”), on April 29, 2009, alleges on the personal knowledge of Petitioner and its attorneys, and otherwise upon information and belief, as follows:

1. Petitioner is a corporation organized and existing under the laws of the State of New York, with a principal place of business at 28 School Street, Glen Cove, New York 11542.
2. Petitioner is a well-known retailer of jewelry.
3. Petitioner has operated its retail jewelry business since November 25, 2011 and through its efforts and expenditures in connection with the marketing, promotion and sale of jewelry has developed valuable good will and consumer recognition of its TWO BY LONDON mark for retail store services featuring jewelry.

4. Respondent is a corporation organized under the laws of the State of Delaware.

5. Respondent is the owner of a trademark registration, Registration No. 3,604,469, for the mark TWO as applied to (a) jewelry; diamonds and precious and semi-precious gemstones in Class 14 and (b) advertising services, for third parties, in connection with commercialization and sale of jewelry, creation of marketing tools designed to increase a client company's knowledge of customer needs and its competitor's products, pricing, advertising strategy and sales strategy, cooperative advertising and marketing and dissemination of advertising materials in Class 35, as assignee of the registrant, Andin International, Inc. A copy of the USPTO's TESS database record for Registration No. 3,604,469 showing the information contained in Respondent's registration is attached hereto as Exhibit A.

6. Petitioner is the owner of a trademark application for the mark TWO BY LONDON for retail store services featuring jewelry, Serial No. 86/030,983, filed on August 7, 2013, for which it is seeking registration on the Principal Register of the United States Patent and Trademark Office ("USPTO"). A copy of the USPTO's TESS database record for application Serial No. 86/030,983 showing the information contained in Petitioner's application is attached hereto as Exhibit B.

7. Petitioner's application was refused registration by Office Action dated June 11, 2014, on the basis of said Registration 3,604,469, on the grounds that Petitioner's mark so resembles the mark TWO shown in Respondent's Registration as to be likely to cause confusion, or to cause mistake or to deceive. This refusal was set forth in a Final Action.

8. On information and belief, Respondent has not made use of the mark TWO in interstate commerce in connection with the goods and services identified in Registration 3,604,469 for three (3) consecutive years and has no intent to resume use of the mark TWO.

9. Petitioner is being and will be damaged by the continued registration of the mark shown in Registration No. 3,604,469 because Petitioner's ability to legally use and register its mark will be prevented by the continued registration of the Respondent's mark.

10. Based upon the foregoing, the continued existence of Registration No. 3,604,469 on the records of the USPTO is causing or will cause damage to the Petitioner.

WHEREFORE, Petitioner prays that the instant Petition for Cancellation be granted and that the Trademark Trial and Appeal Board cancel Registration No. 3,604,469.

Dated: December 10, 2014
New York, New York

Respectfully Submitted,
PHILLIPS NIZER LLP

By: 
Barry H. Fishkin
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New York, New York 10103-0084
Tel: (212) 977-9700

CERTIFICATE OF TRANSMITTAL

I hereby certify that this Petition to Cancel is being electronically transmitted to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) this 10th day of December, 2014.


Helen Mintz

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petition to Cancel was served by first class mail this 10th day of December, 2014, on Respondent at the below addresses:

Richline Group, Inc.
115 South Macquesten Parkway
Mount Vernon, NY 10550

and

Richline Group, Inc.
1385 Broadway
New York, NY 10018

Dated: December 10th, 2014


Helen Mintz



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TWO

Word Mark	TWO
Goods and Services	IC 014. US 002 027 028 050. G & S: Jewelry; diamonds and precious and semi-precious gemstones. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100 IC 035. US 100 101 102. G & S: Advertising services, for third parties, in connection with commercialization and sale of jewelry, creation of marketing tools designed to increase a client company's knowledge of customer needs and its competitors' products, pricing, advertising strategy and sales strategy, cooperative advertising and marketing and dissemination of advertising materials. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	NUM-2 The number 2 or the word Two
Serial Number	78873365
Filing Date	May 1, 2006
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 4, 2007
Registration Number	3604469 April 7, 2009

**Registration
Date****Owner** (REGISTRANT) Andin International, Inc. CORPORATION NEW YORK 609 Greenwich Street
New York NEW YORK 10014(LAST LISTED OWNER) RICHLINE GROUP, INC. CORPORATION DELAWARE 115 SOUTH
MACQUESTEN PARKWAY MOUNT VERNON NEW YORK 10550**Assignment
Recorded**

ASSIGNMENT RECORDED

**Attorney of
Record**

Victoria Elliot

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

**Live/Dead
Indicator**

LIVE

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TWO BY LONDON

Word Mark TWO BY LONDON
Goods and Services IC 035. US 100 101 102. G & S: Retail store services featuring jewelry. FIRST USE: 20111125. FIRST USE IN COMMERCE: 20111125
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 86030983
Filing Date August 7, 2013
Current Basis 1A
Original Filing Basis 1A
Owner (APPLICANT) Scott Jewelers Ltd. CORPORATION NEW YORK 28 School Street Glen Cove NEW YORK 11542
Attorney of Record Barry H. Fishkin
Prior Registrations 4008410;4008412;4021445;AND OTHERS
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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