

ESTTA Tracking number: **ESTTA689596**

Filing date: **08/14/2015**

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	Brachstar Enterprises, LLC dba Superfun Yoga Pants		
Entity	limited liability company	Citizenship	Virginia
Address	4810 Kensington Avenue Richmond, VA 23236 UNITED STATES		

Attorney information	Robert M. Tyler Spotts Fain PC 411 East Franklin Street, Suite 600 Richmond, VA 23219 UNITED STATES trademarks@spottsfain.com Phone:804-697-2000		
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Registration Subject to Cancellation

Registration No	3993694	Registration date	07/12/2011
Registrant	Lock & Key Goods, LLC 1840 N. DAMEN AVENUE, STE 1-S Chicago, IL 60647 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2009/06/01 First Use In Commerce: 2009/06/01 All goods and services in the class are cancelled, namely: Sweatshirts; T-shirts; Wearable garments and clothing, namely, shirts
Class 035. First Use: 2009/08/05 First Use In Commerce: 2009/08/05 All goods and services in the class are cancelled, namely: Promoting the parties and special events of others

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf(121382 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	/Robert M. Tyler/
Name	Robert M. Tyler
Date	08/14/2015

shirts” in International Class 25 and “promoting the parties and special events of others” in International Class 35 (“Registrant’s Mark”).

3. Petitioner engages in the sale of exercise pants, also known as yoga pants.

4. On March 29, 2015, Petitioner filed Application Serial No. 86580183 for the trademark SUPERFUN YOGA PANTS used in connection with retail and online retail store services featuring apparel, namely, yoga pants, in International Class 35.

5. On March 29, 2015, Petitioner filed Application Serial No. 86580190 for the trademark shown below used in connection with retail and online retail store services featuring apparel, namely, yoga pants, in International Class 35.



(Together with SUPERFUN YOGA PANTS, “Petitioner’s Marks”).

6. On July 2, 2015, the Examining Attorney cited Registrant’s Mark as a basis for denying registration of Petitioner’s Marks.

7. From 2009 to 2012, Registrant staged parties under Registrant’s Mark on Wednesday nights at the JBar club at the James Hotel in Chicago. The last such event took place on November 29, 2012.

8. Upon information and belief, Registrant has conducted no activities under Registrant’s Mark since that point. Indeed, two of Registrant’s last entries on its Tumblr page proclaimed “Superfun is dead.”

November 29, 2012



See <http://superfunparty.tumblr.com/>.

9. Other social media accounts used by Registrant, included the Twitter handle @superfunparty and its Facebook presence, have been deactivated.

10. Moreover, the website formerly used by Registrant -- www.atsuperfun.com -- is now owned and used by a Japanese registrant bearing no relation to Registrant or Registrant's Mark.

11. Registrant no longer exists as a legal entity, having been involuntarily administratively dissolved by the State of Illinois on April 11, 2014.

12. From these facts, it can be inferred reasonably, and Registrant affirmatively alleges that, Registrant has abandoned Registrant's Mark by discontinuing use of Registrant's Mark without intent to resume use.

13. A registered trademark may be cancelled if it has been abandoned.

14. Under these circumstances, if Registrant is permitted to retain its registration, and thereby at least a *prima facie* exclusive right to use of the Registrant's Mark, the registration would continue to damage Petitioner.

WHEREFORE, Petitioner prays that its petition be granted and that Registration No. 3993694 be cancelled.

Respectfully submitted,

BRACHSTAR ENTERPRISES, LLC

/Robert M. Tyler/
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Counsel for Brachstar Enterprises, LLC

CERTIFICATE OF SERVICE

I certify that on August 14, 2015, a true copy of the foregoing document was sent by certified mail, return receipt requested, to Lock & Key Goods, LLC, 1840 N. Damen Avenue, Ste 1-S, Chicago, IL 60647.

/Robert M. Tyler/