

ESTTA Tracking number: **ESTTA695729**

Filing date: **09/14/2015**

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	Reiko Wireless Inc.		
Entity	Corporation	Citizenship	New York
Address	1218 Flushing Ave Brooklyn, NY 11237 UNITED STATES		

Attorney information	Brendan M. Shortell Lambert & Associates 92 State Street Suite 200 Boston, MA 02109 UNITED STATES shortell@lambertpatentlaw.com Phone:6177205822		
----------------------	---	--	--

Registration Subject to Cancellation

Registration No	4688323	Registration date	02/17/2015
Registrant	Jin, Yuan 144-18 25DR Flushing, NY 11354 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2014/06/02 First Use In Commerce: 2014/06/02 All goods and services in the class are cancelled, namely: Carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices, namely, portable music players, portable video players, cell phones, tablets and computers
--

Grounds for Cancellation

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

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4688323	Application Date	07/06/2014
Registration Date	02/17/2015	Foreign Priority Date	NONE
Word Mark	REIKO		

Design Mark	<h1>REIKO</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2014/06/02 First Use In Commerce: 2014/06/02 Carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices, namely, portable music players, portable video players, cell phones, tablets and computers

Attachments	86329237#TMSN.png(bytes) TTAB Cancellation Petition.pdf(55993 bytes)
-------------	--

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	/Brendan M. Shortell/
Name	Brendan M. Shortell
Date	09/14/2015

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

Reiko Wireless Inc.,

Petitioner,

v.

Yuan Jin

Respondent.

Cancellation No.

PETITION TO CANCEL

Petitioner Reiko Wireless Inc. ("Reiko"), a New York corporation with a principle place of business at 1218 Flushing Ave, Brooklyn, NY 11237, believes that it is being and will continue to be damaged by Registration No. 4,688,323 for the mark REIKO (the "REIKO Registration") and hereby petitions, in accordance with 37 C.F.R. §2.111(b) to cancel said registration.

1. Upon information and belief, the name and address of the current registrant of the REIKO Registration is Yuan Jin ("Mr. Jin"), an individual residing at 144-18 25DR, Flushing, NY 11354.

2. On July 6, 2014, Mr. Jin filed an in-use application, Serial No. 86,329,237, to register the mark Reiko for use with "Carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices, namely, portable music players, portable video players, cell phones, tablets and computers" in International Class 009.

3. The Reiko application matured to Registration No. 4,688,323 on February 17, 2015.

4. Mr. Jin's REIKO Registration alleges a date of first use of June 2014.

5. Reiko has been continuously using, without interruption, the Reiko name in conjunction with cases for mobile phones; cell phone battery chargers; cell phone battery chargers for use in vehicles; display screen protectors for cellphones; cell phone charger adapters; bluetooth headset; audio speakers; keyboards; carrying cases specially adapted for cellphones; cases for tablets; hands free devices for mobile-phones; audio cables; cell phone memory cards; vehicle cell phone mounts since at least as early as 2005.

6. Reiko had a previous registration for the literal elements of "Reiko" with a design element to the "R", , Registration No. 3,177,021, but the mark was cancelled on July 5, 2013 due to Reiko's failure to file an acceptable declaration under Section 8.

7. Reiko's Registration No. 3,177,021 was registered in International Class 009 for "cases for mobile phones."

8. Despite Reiko's failure to file a Section 8 Declaration for Registration No. 3,177,021 Reiko's use of the  Mark has been valid and continuous since its date of first use in 2005.

9. On August 28, 2015 Reiko filed an in-use application for the  Mark, Serial No. 86,740,427, in International Class 009 for "Cases for mobile phones; Cell phone battery chargers; Cell phone battery chargers for use in vehicles; Display screen protectors for cellphones; cell phone charger adapters; Bluetooth headset; audio speakers; keyboards; Carrying cases specially adapted for cellphones; cases for tablets; Hands free devices for mobile-phones;

audio cables; cell phone memory cards; vehicle cell phone mounts ” (the “ Mark”)

10. Reiko’s use of its  Mark and the Reiko name pre-date both Mr. Jin’s application for the Reiko Registration and alleged date of first use of “Reiko”, therefore, Reiko has priority in the Reiko mark.

11. Reiko’s  Mark has established extensive goodwill through Reiko’s decade of use.

12. Reiko’s  Mark has acquired a high degree of recognition through continued use and expenditures of time, effort and money in advertising and promotion, and serves as a unique identifier of the goods offered by Reiko.

13. Reiko’s  Mark is similar to Mr. Jin’s REIKO Registration in that the two marks incorporate the identical “Reiko” element.

14. The goods associated with Reiko’s and Mr. Jin’s marks, namely, cases for mobile phones, are identical.

15. Upon information and belief, the goods which Mr. Jin’s uses his REIKO Registration in conjunction with, are offered for sale and are sold through the same channels of trade and offered and sold to the same class of purchasers as the goods with which Reiko’s uses its  Mark.

16. Reiko is being and will continue to be will be damaged by Mr. Jin's REIKO Registration.

COUNT 1
LIKELIHOOD OF CONFUSION

17. Reiko hereby incorporates by reference and realleges each and every allegation set forth in Paragraphs 1 through 16.

18. Reiko's date of use for its  Mark is prior to the date of filing of Mr. Jin's application for his REIKO Registration and Mr. Jin's claimed date of first use in his application for the REIKO Registration.

19. Mr. Jin's REIKO Registration is confusingly similar in sound, appearance and meaning to Reiko's  Mark and creates a similar overall impression to Reiko's  Mark.

20. The goods registered under, and sold through, Mr. Jin's REIKO Registration are identical to those offered for sale and sold by Reiko under its  Mark.

21. Reiko's goods are offered to the same class of consumers who purchase goods promoted and sold by Mr. Jin under his REIKO Registration.

22. In view of the similarity of the respective marks, identical channels of trade and the identical goods offered for sale by the respective parties, Mr. Jin's REIKO Registration so resembles Reiko's  Mark, which has the earlier date of first use, as to be likely to cause confusion, or to cause mistake, or to deceive as to source, by suggesting that Mr.

Jin's goods are associated with or approved, endorsed, affiliated, authorized or sponsored by Reiko when in fact they are not.

PRAYERS FOR RELIEF

WHEREFORE, Mr. Jin's REIKO Registration (No. 4,688,323), is damaging Reiko Wireless Inc. and is likely to cause confusion with Reiko's  Mark, therefore, Reiko requests that the instant Petition to Cancel be granted and that the REIKO Registration (No. 4,688,323) be cancelled.

The fee required by §2.6(a)(16) is enclosed herewith.

Respectfully submitted,

Reiko Wireless Inc.
By its Attorneys,

/s/ Brendan M. Shortell
Brendan M. Shortell, Esq. (BBO # 675851)
Lambert & Associates
92 State Street, Suite 200
Boston, MA 02109
shortell@lambertpatentlaw.com
Tel. No.: (617) 720-0091
Fax. No.: (617) 720-6307

Dated: September 14, 2015

CERTIFICATE OF ELECTRONIC FILING

I HEREBY CERTIFY that the attached PETITION TO CANCEL was filed electronically with the Trademark Trial and Appeal Board on September 14, 2015.

/s/ Brendan M. Shortell
Brendan M. Shortell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Petition to Cancel was sent via first class mail on this day of September 14, 2015 in an envelope addressed to Mr. Jin at the following address:

Yuan Jin
144-18 25DR
Flushing, NY 11354

/s/ Brendan M. Shortell
Brendan M. Shortell