

ESTTA Tracking number: **ESTTA705180**

Filing date: **10/28/2015**

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	MIDWOOD DISTRIBUTORS, INC.		
Entity	Corporation	Citizenship	NEW JERSEY
Address	120 JERSEY AVENUE NEW BRUNSWICK, NJ 08901 UNITED STATES		

Attorney information	MAX MOSKOWITZ OSTROLENK FABER LLP 1180 AVENUE OF THE AMERICAS, 7TH FLOOR NEW YORK, NY 10036 UNITED STATES smcmahon@ostrolenk.com, tm@ostrolenk.com Phone:(212) 382-0700		
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Registration Subject to Cancellation

Registration No	2351828	Registration date	05/23/2000
Registrant	Sherwood Brands, LLC SUITE 225 Rockville, MD 20850 UNITED STATES		

Goods/Services Subject to Cancellation

Class 030. First Use: 1998/12/01 First Use In Commerce: 1998/12/01 All goods and services in the class are cancelled, namely: CANDY
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	T-5998-6 - Petition to Cancel RN 2351828 (01828707).PDF(72389 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	/MM/
Name	MAX MOSKOWITZ
Date	10/28/2015

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

In the Matter of Registration No. 2,351,828

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MIDWOOD DISTRIBUTORS, INC.,

Petitioner,

v.

SHERWOOD BRANDS, LLC,

Respondent.
-----X

Cancellation No.

PETITION FOR CANCELLATION

Petitioner, Midwood Distributors, Inc., a corporation of New Jersey having an address at 120 Jersey Avenue, New Brunswick, New Jersey 08901, believes that it will be damaged by the continued existence of Registration No. 2,351,828 for the mark SHERWOOD COFFEE PERKS, issued on May 23, 2000, for “candy” in Class 30, and therefore petitions to cancel same. As grounds for cancellation, Petitioner, by its attorneys, Ostrolenk Faber LLP, alleges as follows:

1. Midwood Distributors, Inc. is a corporation of New Jersey having an address at 120 Jersey Avenue, New Brunswick, New Jersey 08901.
2. Upon information and belief, Respondent, Sherwood Brands, LLC was a limited liability company of Maryland or North Carolina having an address at 9601 Blackwell Road, Suite 225, Rockville, Maryland 20850.
3. Upon information and belief, Respondent, Sherwood Brands, LLC, is identified in U.S. Patent and Trademark Office records as the owner of U.S. Trademark Registration No. 2,351,828 for the mark SHERWOOD COFFEE PERKS for “candy” in Class 30, which issued

on May 23, 2000.

4. Petitioner is the owner of U.S. Trademark Application Serial No. 86/121,641 for the mark SHERWOOD. The U.S. Patent and Trademark Office, in Office Actions mailed on March 27, 2015 and October 20, 2015, cited Registration No. 2,351,828 as grounds for refusal of registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

5. Upon information and belief, Respondent is no longer an active business entity and has discontinued use of and has failed to use as a trademark the designation SHERWOOD COFFEE PERKS as set forth in U.S. Trademark Registration No. 2,351,828 for all of the registered goods for a period of at least three consecutive years.

6. Upon information and belief, Respondent's discontinuance of use of and failure to use as a trademark the designation SHERWOOD COFFEE PERKS for all of the registered goods set forth in U.S. Trademark Registration No. 2,351,828 has been intentional and without intent to resume use as a trademark in connection with any of the registered goods.

7. Continued registration of Respondent's mark SHERWOOD COFFEE PERKS will damage Petitioner in that Respondent's claim of exclusive rights in the mark SHERWOOD COFFEE PERKS as reflected in U.S. Trademark Registration No. 2,351,828 may be adverse to Petitioner's ability to use and/or register the mark SHERWOOD as set forth in application Serial No. 86/121,641.

8. By reason of the foregoing, Respondent has abandoned any and all rights in and to the mark SHERWOOD COFFEE PERKS as set forth in U.S. Trademark Registration No. 2,351,828 pursuant to §§ 14(a) and 45 of the Lanham Act, 15 U.S.C. §§ 1064(a) and 1127.

9. By reason of the foregoing, Petitioner is being damaged and will continue to be damaged by the continued registration of the mark SHERWOOD COFFEE PERKS to Respondent within the meaning of Section 14 of the Lanham Act, 15 U.S.C. § 1064.

WHEREFORE, it is respectfully requested that this cancellation action be sustained and that U.S. Trademark Registration No. 2,351,828 be cancelled.

The cancellation fee in the amount of \$300.00 for one class is filed herewith. If for any reason this amount is insufficient, it is requested that Petitioner's attorneys' deposit account No. 15-0700 be charged with any deficiency.

Dated: October 28, 2015
New York, New York

Respectfully submitted,



Max Moskowitz

OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Tel: (212) 382-0700

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on Respondent by mailing said copy on October 28, 2015, via First Class Mail, postage prepaid to:

SHERWOOD BRANDS, LLC
9601 Blackwell Road, Suite 225
Rockville, Maryland 20850



Sean P. McMahon