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Filing date: **11/12/2015**

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

Proceeding	92062598
Party	Plaintiff Georges Marciano and MsKmarciano, Inc.
Correspondence Address	CHRISTOPHER Q PHAM JOHNSON & PHAM LLP 6355 TOPANGA CANYON BOULEVARD, SUITE 326 WOODLAND HILLS, CA 91367 UNITED STATES cpham@johnsonpham.com, jvener@johnsonpham.com
Submission	Other Motions/Papers
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Date	11/12/2015
Attachments	11.12.15_Certificate of Service.pdf(2251952 bytes )

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

Trademark Registration No.: 2,139,312  
For the Mark: MARCIANO  
Date Registered: February 24, 1998

Trademark Registration No.: 1,179,281  
For the Mark: MARCIANO  
Date Registered: November 24, 1981

Trademark Registration No.: 3,342,581  
For the Mark: MARCIANO  
Date Registered: November 27, 2007

Trademark Registration No.: 3,015,017  
For the Mark: MARCIANO  
Date Registered: November 15, 2005

Trademark Registration No.: 4,210,799  
For the Mark: GUESS BY MARCIANO  
Date Registered: September 18, 2012

Trademark Registration No.: 4,008,751  
For the Mark: GUESS BY MARCIANO  
Date Registered: August 9, 2011

Trademark Registration No.: 1,997,798  
For the Mark: MARCIANO COLLECTION  
Date Registered: September 3, 1996

GEORGES MARCIANO and  
MSKMARCIANO, INC.

Petitioners,

v.

GUESS I.P HOLDER, L.P.

Registrant.

Petitioner for Cancellation No.: 92062598

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

I, Christopher Q. Pham, hereby certify that on this 12<sup>th</sup> day of November, 2015, transmitted via First Class USPS Mail, a true and correct copy of the attached Petition for Cancellation (Document #1) upon Registrant, per the Board's November 12, 2015 Order (Document #2), at the owner of record's address(es) of record on file with the USPTO, to the following:

GUESS? IP HOLDER L.P.  
Legal Department  
1444 South Alameda Street  
Los Angeles, California 90021

Michael J. MacDermott, Esq.  
G. Warren Bleeker, Esq.  
CHRISTIE PARKER & HALE LLP  
P.O. Box 29001  
Glendale, California 91209-9001

Michael J. MacDermott, Esq.  
G. Warren Bleeker, Esq.  
CHRISTIE PARKER & HALE LLP  
P.O. Box 7068  
Pasadena, California 91109-7068

Dated: November 12, 2015

By: /s/Christopher Q. Pham  
Christopher Q. Pham

ESTTA Tracking number: **ESTTA707834**

Filing date: **11/10/2015**

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 parties request to cancel indicated registration.

**Petitioner Information**

Name	MSKMARCIANO, INC.		
Entity	Corporation	Citizenship	California
Address	21700 OXNARD STREET SUITE 1160 Woodland Hills, CA 91367 UNITED STATES		

Name	Georges Marciano		
Entity	Individual	Citizenship	UNITED STATES
Address	507 Place D'Armes, Suite 950 Montreal, QC H2Y2W8 CANADA		

Attorney information	Christopher Q. Pham Johnson & Pham, LLP 6355 Topanga Canyon Boulevard Suite 326 Woodland Hills, CA 91367 UNITED STATES cpham@johnsonpham.com, jvener@johnsonpham.com Phone:(818) 888-7540		
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**Registrations Subject to Cancellation**

Registration No	2139312	Registration date	02/24/1998
Registrant	GUESS? IP HOLDER L.P. 1444 SOUTH ALAMEDA STREET LOS ANGELES, CA 90021 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 1972/02/01 First Use In Commerce: 1972/02/01 All goods and services in the class are cancelled, namely: skirts, dresses, trousers, shorts, jackets, shirts, sweaters and tops
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**Grounds for Cancellation**

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Abandonment	Trademark Act section 14		
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		
Registration No	1179281	Registration date	11/24/1981
Registrant	GUESS? IP HOLDER L.P. 1444 SOUTH ALAMEDA STREET LOS ANGELES, CA 90021 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 1972/02/01 First Use In Commerce: 1972/02/01 All goods and services in the class are cancelled, namely: Clothing-Namely, Jeans, Pants, Shirts, Blouses and Coveralls
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### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)		
False suggestion of a connection	Trademark Act section 2(a)		
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
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		
Registration No	3342581	Registration date	11/27/2007
Registrant	GUESS? IP HOLDER L.P. 1444 SOUTH ALAMEDA STREET LOS ANGELES, CA 90021 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 026. First Use: 2004/01/01 First Use In Commerce: 2004/01/01 All goods and services in the class are cancelled, namely: Buttons for clothing; Rivet buttons; Shirt buttons
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### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)		
False suggestion of a connection	Trademark Act section 2(a)		
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		

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	
Registration No	3015017	Registration date	11/15/2005
Registrant	GUESS? IP HOLDER L.P. 1444 SOUTH ALAMEDA STREET LOS ANGELES, CA 90021 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 003. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: SOAPS, PERFUMES, COSMETICS
Class 009. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: EYEWEAR, NAMELY, SUNGLASSES AND EYEGLASS FRAMES
Class 014. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: JEWELRY AND WATCHES, INCLUDING BRACELETS, EARRINGS, RINGS, NECKLACES, TOE RINGS, TIE CLIPS, LAPEL PINS, CUFF LINKS, KEYRINGS OF PRECIOUS METAL, BELT BUCKLES OF PRECIOUS METAL FOR CLOTHING, WATCH BANDS, POCKET WATCHES, WRIST WATCHES
Class 018. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: LEATHER AND IMITATION LEATHER GOODS, NAMELY, PURSES, WALLETS, BACKPACKS, ATTACHE CASES, BRIEFCASES AND LEATHER PERSONAL ORGANIZERS
Class 025. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: MEN'S, WOMEN'S, BOYS', GIRLS', CHILDREN'S APPAREL, NAMELY, FOOTWEAR, SWIMWEAR, CAPS, HEADWEAR, PAJAMAS, HOSIERY, GLOVES, BELTS, NECKTIES, UNDERSHIRTS, SOCKS, SHIRTS, T-SHIRTS, SWEATPANTS, SWEATSHIRTS, KNIT TOPS, SKIRTS, PANTS, TROUSERS, SHORTS, SWEATERS, JEANS, VESTS, COATS, JACKETS, OVERALLS, BLAZERS, DRESSES, SCARVES, BLOUSES, CARDIGANS, GOWNS, GOLF SHIRTS, JOGGING SUITS, TURTLENECKS, SUITS AND POLO SHIRTS; WOMEN'S PANTIES, BRAS, TANK TOPS, CROP TOPS, BUSTIERS, CAMISOLES, MEN'S BRIEFS AND BOXER SHORTS; TOPS, HATS, SHOES AND BOOTS
Class 035. First Use: 2004/04/01 First Use In Commerce: 2004/04/01 All goods and services in the class are cancelled, namely: RETAIL STORE SERVICES IN THE FIELD OF MEN'S, WOMEN'S AND CHILDREN'S APPAREL AND PERSONAL ACCESSORIES

### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
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
Registration No	4210799
Registration date	09/18/2012

Registrant	Guess? IP Holder L.P. 1444 South Alameda Street Los Angeles, CA 90021 UNITED STATES
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### Goods/Services Subject to Cancellation

Class 009. First Use: 2008/00/00 First Use In Commerce: 2008/00/00 All goods and services in the class are cancelled, namely: DECORATIVE AND PROTECTIVE COVERS AND CASES FOR PORTABLE ELECTRONIC DEVICES, NAMELY, PERSONAL ELECTRONIC DEVICES, CELL PHONES, MOBILE PHONES, TELEPHONES, COMPUTERS, LAPTOP COMPUTERS, TABLET COMPUTERS, NOTEBOOK COMPUTERS, MP3 PLAYERS, PORTABLE MUSIC PLAYERS, PERSONAL DIGITAL ASSISTANTS, ELECTRONIC READING DEVICES, DIGITAL CAMERAS, AND CAMERAS; EYEWEAR
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### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)		
False suggestion of a connection	Trademark Act section 2(a)		
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
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	4008751	Registration date	08/09/2011
Registrant	Guess? IP Holder L.P. 1444 South Alameda Street Los Angeles, CA 90021 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 003. First Use: 2008/00/00 First Use In Commerce: 2008/00/00 All goods and services in the class are cancelled, namely: FRAGRANCES; PERFUMES AND COLOGNES
Class 009. First Use: 2008/00/00 First Use In Commerce: 2008/00/00 All goods and services in the class are cancelled, namely: EYEWEAR; SUNGLASSES, EYEGASS FRAMES AND CASES FOR EYEWEAR
Class 014. First Use: 2004/00/00 First Use In Commerce: 2004/00/00 All goods and services in the class are cancelled, namely: JEWELRY AND WATCHES; BRACELETS, EARRINGS, RINGS, NECKLACES, TOE RINGS, TIE CLIPS, LAPEL PINS, CUFF LINKS, WATCH BANDS, WRIST WATCHES
Class 018. First Use: 2004/00/00 First Use In Commerce: 2004/00/00 All goods and services in the class are cancelled, namely: PURSES, WALLETS, HANDBAGS, LUGGAGE, KEYCASES, BUSINESS CARD CASES, CHANGE PURSES, BACKPACKS, ATTACHE CASES AND BRIEFCASES
Class 025. First Use: 2004/00/00 First Use In Commerce: 2004/00/00 All goods and services in the class are cancelled, namely: MEN'S, WOMEN'S, CHILDREN'S AND IN-

FANT'S APPAREL, NAMELY, UNDERWEAR, FOOTWEAR, SWIMWEAR, CAPS, HEADWEAR, ROBES, PAJAMAS, HOSIERY, GLOVES, BELTS, NECKTIES, UNDERSHIRTS, SOCKS, SHIRTS, T-SHIRTS, SWEATPANTS, SWEATSHIRTS, KNIT TOPS, SKIRTS, PANTS, TROUSERS, SHORTS, SWEATERS, JEANS, VESTS, COATS, JACKETS, OVERALLS, BLAZERS, DRESSES, SCARVES, BLOUSES, CARDIGANS, GOWNS, GOLF SHIRTS, JOGGING SUITS, TURTLENECKS, SUITS AND POLO SHIRTS; WOMEN'S PANTIES, BRAS, TANK TOPS, CROP TOPS, BUSTIERS, CAM-ISOLES, TAP PANTS AND TEDDIES; MEN'S BRIEFS AND BOXER SHORTS

Class 035. First Use: 2004/00/00 First Use In Commerce: 2004/00/00  
 All goods and services in the class are cancelled, namely: RETAIL STORE SERVICES AND ONLINE RETAILSTORE SERVICES IN THE FIELD OF MEN'S, WOMEN'S AND CHILDREN'S APPAREL AND PERSONAL ACCESSORIES

### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)		
False suggestion of a connection	Trademark Act section 2(a)		
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
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	1997798	Registration date	09/03/1996
Registrant	GUESS? IP HOLDER L.P. 1444 SOUTH ALAMEDA STREET LOS ANGELES, CA 90021 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 1993/10/00 First Use In Commerce: 1993/10/00  
 All goods and services in the class are cancelled, namely: skirts, shorts, dresses, blouses, shirts, blazers and jeans

### Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)		
False suggestion of a connection	Trademark Act section 2(a)		
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)		
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
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		

Related Proceedings	91219046
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### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	1979116	Application Date	10/18/1993
Registration Date	06/11/1996	Foreign Priority Date	NONE
Word Mark	GEORGES MARCIANO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 soaps, namely skin soap, toilet soap, and soap for hands, face, and body; perfumes, eau de toilette, after shave lotion, and skin moisturizer; essential oils for personal use; cosmetics, namely lipstick, eyeliner, mascara, blush eyeshadow, face foundation, and face powder; and hair waving lotion, hair shampoo, and hair conditioner		

U.S. Registration No.	1454366	Application Date	08/15/1986
Registration Date	08/25/1987	Foreign Priority Date	NONE
Word Mark	GEORGES MARCIANO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1981/12/00 First Use In Commerce: 1981/12/00 MEN'S, WOMEN'S AND CHILDREN'S APPAREL, NAMELY, JEANS, SUITS, COATS, JACKETS, SHIRTS, BLOUSES, VESTS, DRESSES, SKIRTS, SHORTS, JUMPSUITS, OVERALLS, SWEATSHIRTS, T-SHIRTS, SWEATERS, TROUSERS, STOCKINGS, SOCKS AND TIGHTS		

U.S. Registration No.	1431893	Application Date	06/16/1986
Registration Date	03/10/1987	Foreign Priority Date	NONE
Word Mark	GEORGES MARCIANO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1984/11/00 First Use In Commerce: 1984/11/00 CLOCKS AND WATCHES		

U.S. Registration No.	1384071	Application Date	01/07/1985
Registration Date	02/25/1986	Foreign Priority Date	NONE
Word Mark	GEORGES MARCIANO		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 SUNGLASSES</p> <p>Class 014. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 JEWELRY</p> <p>Class 016. First use: First Use: 1984/09/19 First Use In Commerce: 1984/09/19 ENVELOPES</p> <p>Class 018. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 LEATHER HANDBAGS WITH LEATHER TRIM</p> <p>Class 020. First use: First Use: 1984/09/19 First Use In Commerce: 1984/09/19 PICTURE FRAMES</p> <p>Class 021. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 HAIRBRUSH WITH WOODEN HANDLE AND WINE GLASS</p> <p>Class 024. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 BED COVERS AND SHEETS</p> <p>Class 026. First use: First Use: 1984/09/18 First Use In Commerce: 1984/09/18 BUTTONS FOR CLOTHING</p> <p>Class 028. First use: First Use: 1984/09/19 First Use In Commerce: 1984/09/19 HAND WEIGHT FOR RUNNING</p>

Attachments	11.10.15_Petition For Cancellation.pdf(171726 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	/Christopher Q. Pham/
Name	Christopher Q. Pham
Date	11/10/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Trademark Registration No.: 2,139,312  
For the Mark: MARCIANO  
Date Registered: February 24, 1998

Trademark Registration No.: 1,179,281  
For the Mark: MARCIANO  
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Trademark Registration No.: 3,342,581  
For the Mark: MARCIANO  
Date Registered: November 27, 2007

Trademark Registration No.: 3,015,017  
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Date Registered: November 15, 2005

Trademark Registration No.: 4,210,799  
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Trademark Registration No.: 4,008,751  
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Date Registered: August 9, 2011

Trademark Registration No.: 1,997,798  
For the Mark: MARCIANO COLLECTION  
Date Registered: September 3, 1996

GEORGES MARCIANO and  
MSKMARCIANO, INC.

Petitioners,

v.

GUESS I.P HOLDER, L.P.

Registrant.

Petitioner for Cancellation No.: \_\_\_\_\_

**PETITION FOR CANCELLATION**

## PETITION FOR CANCELLATION

Petitioner GEORGES MARCIANO is now, and was at the time of the filing of this Petition for Cancellation, and at all intervening times, an individual residing in Quebec, Montreal, Canada. Petitioner GEORGES MARCIANO is the sole proprietor and owner of Petitioner MSKMARCIANO, INC. (GEORGES MARCIANO and MSKMARCIANO, INC. to be collectively referred to herein as "Petitioners")

Petitioner MSKMARCIANO, INC., is now, and was at the time of filing this Notice of Opposition, and at all intervening times, a California Corporation, with its principal place of business in Los Angeles, California, and record owner of the GEORGES MARCIANO trademarks registered with the United States Patent and Trademark Office ("USPTO") having registration numbers: 1,979,116, for soaps, namely, skin soap, toilet soap, and soap for hands, face, and body, perfumes, eau de toilette, after shave lotion, and skin moisturizer, essential oils for personal use, cosmetics, namely lipstick, eyeliner, mascara, blush eyeshadow, face foundation, and face powder, and hair waiving lotion, hair shampoo, and hair conditioner; 1,454,366, for men's, women's and children's apparel, namely, jeans, suits, coats, jackets, shirts, blouses, vests, dresses, skirts, shorts, jumpsuits, overalls, sweaters, trousers, stockings, socks and tights; 1431893, for clocks and watches; and 1,384,071, for sunglasses and leather handbags with leather trim.

Registrant GUESS? IP HOLDER, L.P. ("Registrant") was at the time of the filing of this Petition for Cancellation, and at all intervening times, a limited partnership wholly owned by Guess?, Inc., a Delaware Corporation, with its principal place of business in Los Angeles, California.

Registrant is record owner of the trademark MARCIANO, Registration No.: 2,139,312, for “skirts, dresses, trousers, shorts, jackets, shirts, sweaters and tops[.]”

Registrant is record owner of the trademark MARCIANO, Registration No.: 1,179,281, for “Clothing-Namely, Jeans, Pants, Shirts, Blouses and Coveralls[.]”

Registrant is record owner of the trademark MARCIANO, Registration No.: 3,342,581, for “Buttons for clothing; Rivet buttons; Shirt buttons[.]”

Registrant is record owner of the trademark MARCIANO, Registration No.: 3,015,017, for: “SOAPS, PERFUMES, COSMETICS[;]” “EYEWEAR, NAMELY, SUNGLASSES AND EYEGLOSS FRAMES[;]” “JEWELRY AND WATCHES, INCLUDING BRACELETS, EARRINGS, RINGS, NECKLACES, TOE RINGS, TIE CLIPS, LAPEL PINS, CUFF LINKS, KEY RINGS OF PRECIOUS METAL, BELT BUCKLES OF PRECIOUS METAL FOR CLOTHING, WATCH BANDS, POCKET WATCHES, WRIST WATCHES[;]” “LEATHER AND IMITATION LEATHER GOODS, NAMELY, PURSES, WALLETS, BACKPACKS, ATTACHE CASES, BRIEFCASES AND LEATHER PERSONAL ORGANIZERS[;]” “MEN'S, WOMEN'S, BOYS', GIRLS', CHILDREN'S APPAREL, NAMELY, FOOTWEAR, SWIMWEAR, CAPS, HEADWEAR, PAJAMAS, HOSIERY, GLOVES, BELTS, NECKTIES, UNDERSHIRTS, SOCKS, SHIRTS, T-SHIRTS, SWEATPANTS, SWEATSHIRTS, KNIT TOPS, SKIRTS, PANTS, TROUSERS, SHORTS, SWEATERS, JEANS, VESTS, COATS, JACKETS, OVERALLS, BLAZERS, DRESSES, SCARVES, BLOUSES, CARDIGANS, GOWNS, GOLF SHIRTS, JOGGING SUITS, TURTLENECKS, SUITS AND POLO SHIRTS; WOMEN'S PANTIES, BRAS, TANK TOPS, CROP TOPS, BUSTIERS, CAMISOLES, MEN'S BRIEFS AND BOXER SHORTS; TOPS, HATS, SHOES AND BOOTS[;]” and “RETAIL

STORE SERVICES IN THE FIELD OF MEN'S, WOMEN'S AND CHILDREN'S APPAREL AND PERSONAL ACCESSORIES[.]”

Registrant is record owner of the trademark GUESS BY MARCIANO, Registration No.: 4,210,799, for “DECORATIVE AND PROTECTIVE COVERS AND CASES FOR PORTABLE ELECTRONIC DEVICES, NAMELY, PERSONAL ELECTRONIC DEVICES, CELL PHONES, MOBILE PHONES, TELEPHONES, COMPUTERS, LAPTOP COMPUTERS, TABLET COMPUTERS, NOTEBOOK COMPUTERS, MP3 PLAYERS, PORTABLE MUSIC PLAYERS, PERSONAL DIGITAL ASSISTANTS, ELECTRONIC READING DEVICES, DIGITAL CAMERAS, AND CAMERAS; EYEWEAR.”

Registrant is record owner of the trademark GUESS BY MARCIANO, Registration No.: 4,008,751, for: “FRAGRANCES; PERFUMES AND COLOGNES[;]” “EYEWEAR; SUNGLASSES, EYEGLOSS FRAMES AND CASES FOR EYEWEAR[;]” “JEWELRY AND WATCHES; BRACELETS, EARRINGS, RINGS, NECKLACES, TOE RINGS, TIE CLIPS, LAPEL PINS, CUFF LINKS, WATCH BANDS, WRIST WATCHES[;]” “PURSES, WALLETS, HANDBAGS, LUGGAGE, KEY CASES, BUSINESS CARD CASES, CHANGE PURSES, BACKPACKS, ATTACHE CASES AND BRIEFCASES[;]” “MEN'S, WOMEN'S, CHILDREN'S AND INFANT'S APPAREL, NAMELY, UNDERWEAR, FOOTWEAR, SWIMWEAR, CAPS, HEADWEAR, ROBES, PAJAMAS, HOSIERY, GLOVES, BELTS, NECKTIES, UNDERSHIRTS, SOCKS, SHIRTS, T-SHIRTS, SWEATPANTS, SWEATSHIRTS, KNIT TOPS, SKIRTS, PANTS, TROUSERS, SHORTS, SWEATERS, JEANS, VESTS, COATS, JACKETS, OVERALLS, BLAZERS, DRESSES, SCARVES, BLOUSES, CARDIGANS, GOWNS, GOLF SHIRTS, JOGGING SUITS, TURTLENECKS, SUITS AND POLO SHIRTS; WOMEN'S PANTIES, BRAS, TANK TOPS, CROP TOPS,

BUSTIERS, CAMISOLES, TAP PANTS AND TEDDIES; MEN'S BRIEFS AND BOXER SHORTS[;]" and "RETAIL STORE SERVICES AND ONLINE RETAIL STORE SERVICES IN THE FIELD OF MEN'S, WOMEN'S AND CHILDREN'S APPAREL AND PERSONAL ACCESSORIES."

And, Registrant is record owner of the trademark MARCIANO COLLECTION, Registration No.: 1,997,798 for "skirts, shorts, dresses, blouses, shirts, blazers and jeans[.]"

Petitioners are currently and will continue to be damaged by the aforementioned MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTION registrations and hereby petitions for the cancellation of same pursuant to the provisions of 15 U.S.C. §1063 and 37 CFR §2.104.

The grounds for cancellation are as follows:

1. Petitioner GEORGES MARCIANO is the original founder of Guess?, Inc., and of the Guess-brand clothing line. Petitioner GEORGES MARCIANO founded Guess?, Inc., in 1981 and was the sole designer of the clothing line. Petitioner GEORGES MARCIANO was, also at one time, Guess?, Inc.'s majority shareholder, original chairman, Chief Executive Officer, and head designer.

2. Petitioner GEORGES MARCIANO is the originator of Guess trademarks, as well as those no longer lawfully used by Guess?, Inc. These trademarks include: "Georges Marciano;" "Designed by Georges Marciano;" "By Georges Marciano;" and "For Guess by Georges Marciano." However, Guess?, Inc.'s use of these marks was pursuant only to a license granted by Petitioner.

3. On or about July 25, 1983, Petitioner GEORGES MARCIANO, through the business entity, Georges Marciano, Inc., entered into a licensing agreement whereby he licensed

to Guess?, Inc., under limited terms, use of the trademarks: “Georges Marciano;” “Designed by Georges Marciano;” “By Georges Marciano;” and “For Guess by Georges Marciano.” Ultimately, Georges Marciano, Inc., was merged into Petitioner MSKMARCIANO, INC.

4. Under the terms of this licensing agreement, Guess?, Inc., acknowledged and agreed that Petitioners would “ha[ve] rights to the name, character, symbol, logo, design, likeness and visual representation of ‘Georges Marciano’, and the logo in the form [attached to the agreement] (which name, character, symbol, logo, design, likeness and visual representation and/or each of the individual components thereof shall hereinafter be called the “Mark[.]”

5. Petitioner GEORGES MARCIANO was the sole artistic director of Guess?, Inc., from its foundation in or about 1981 and until 1993, when Petitioner GEORGES MARCIANO sold his shares in Guess?, Inc., to his brothers Maurice Marciano, Paul Marciano, and Armand Marciano.

6. On or about August 23, 1993, in conjunction with Petitioner GEORGES MARCIANO’s departure from Guess?, Inc., the licensing agreement between Petitioner GEORGES MARCIANO and Guess?, Inc., was cancelled pursuant to a Cancellation and Reassignment Agreement. Pursuant to this Cancellation and Reassignment Agreement, the July 25, 1983, licensing agreement between Petitioner GEORGES MARCIANO and Guess?, Inc., was cancelled and Guess?, Inc., was to refrain from using any mark using Petitioner GEORGES MARCIANO’s name.

7. Also, pursuant to the Cancellation and Reassignment Agreement, Guess?, Inc., was to phase out all products bearing the GEORGES MARCIANO marks and name, and to cease providing to, offering for sale to, and distributing to Guess?, Inc., licensees any products bearing Petitioner GEORGES MARCIANO marks. Guess?, Inc., was also to obtain letters from

its licensees confirming that the licensees had ceased all sales of any product bearing a GEORGES MARCIANO mark.

8. Guess?, Inc., was also required under the Cancellation and Reassignment agreement to transfer all registered GEORGES MARCIANO marks, in all territories, to Petitioner GEORGES MARCIANO and record said transfers with the pertinent government agencies. Guess?, Inc., was also required to let lapse all registrations whereby a GEORGES MARCIANO mark was used in conjunction with another mark held by Guess?, Inc., (e.g. "Guess by Georges Marciano, etc.)

9. However, as a result of Petitioner GEORGES MARCIANO's position with Guess?, Inc., as founder, business director and designer, along with use of Petitioner GEORGES MARCIANO's name by Guess?, Inc., to sell products (pursuant to the licensing agreement), Petitioner GEORGES MARCIANO's name became so inextricably tied to Guess?, Inc., and Guess?, Inc., products that, to this day, the surname "Marciano" is synonymous in the minds of consumers and the public with Petitioner GEORGES MARCIANO, especially where the surname "Marciano" appears on or in conjunction with (i.e. through retail stores marked MARCIANO) the sale of clothing items bearing Guess?, Inc., trademarks.

10. Despite Guess?, Inc., and Registrant's agreement not to use Petitioner GEORGES MARCIANO's name and Petitioners' trademarks, on or about December 2, 1993, Guess?, Inc., filed an application for the trademark MARCIANO COLLECTION (now having Registration No.: 1,997,798 and held by Registrant). Similarly, on December 17, 1993, Guess?, Inc., filed an application for MARCIANO (now having Registration No.:2,139,312, and held by Registrant)

11. On December 20, 1993, Petitioners filed suit against Guess?, Inc., in the Central District of California, Case No.: CV 93-7666 AWT (Ex), entitled *MSK Marciano, Inc., et al. v.*

*Guess?, Inc., et al.* (the “Prior Matter”) In summary, this suit was based upon Petitioners’ allegations, amongst others, that Guess, Inc.’s and Registrant’s use of the mark MARCIANO COLLECTION, without Petitioners’ approval, infringed upon the trademarks held by Petitioners which included GEORGES MARCIANO’s surname, “Marciano,” and breached agreements between Petitioners and Guess?, Inc., holding that no use of the name “Marciano” could be made by Guess?, Inc., without Petitioners’ authorization.

12. Ultimately, the Prior Matter was settled between the parties through a settlement agreement on or about March 29, 1994. Under the terms of this agreement: “All parties included in that action will be free to use their names in any way they want in the future without the possibility of any claims of trademark infringement in the future, in the United States and any country where Guess is registered, for claims, known and unknown. Georges Marciano is free to use his name for retail operation immediately for up to five retail stores until August 23, 1995. After that date he is free to use his name any way he wishes in retail and manufacturing.”

13. This provision of the Settlement Agreement, was meant to be understood and read in light of a letter that Guess?, Inc., and Registrant sent to Petitioners in January 1994, wherein, Guess?, Inc., and Registrant proposed to Petitioners that “MSK Marciano, [Georges Marciano], Guess, Armand, Maurice and Paul each agree not to use the surname ‘Marciano’ except with the first name of the four brothers, and then only when authorized by the brother whose name is used.”

14. It must also be noted that, though “Marciano” is the surname of Petitioner GEORGES MARCIANO, which would be known to Guess?, Inc., and Registrant by virtue of the fact that Petitioner GEORGES MARCIANO is Guess?, Inc.’s founder, and by virtue of the fact that Guess?, Inc., previously licensed from Petitioner GEORGES MARCIANO the right to

use Petitioner GEORGES MARCIANO's name, each time that Guess?, Inc., and/or Registrant filed an application for a trademark or for the renewal of a trademark which includes the surname "Marciano," Guess?, Inc., and/or Registrant failed disclose to the USPTO that "Marciano" is a surname belonging to a living individual (i.e. Petitioner GEORGES MARCIANO) whose consent was not given for the use of his name or likeness.

15. Petitioner MSKMARCIANO, INC. is the owner of record for the USPTO registered trademark GEORGES MARCIANO, for "MEN'S, WOMEN'S AND CHILDREN'S APPAREL, NAMELY, JEANS, SUITS, COATS, JACKETS, SHIRTS, BLOUSES, VESTS, DRESSES, SKIRTS, SHORTS, OVERALLS, SWEATSHIRTS, T-SHIRTS, SWEATERS, TROUSERS, STOCKINGS, SOCKS AND TIGHTS," having USPTO Reg. No.: 1,454,366., and a date of first use in commerce at least as of 1981.

16. Petitioner MSKMARCIANO, INC. is also the owner of the USPTO registered trademark GEORGES MARCIANO, for "LEATHER HANDBAGS WITH LEATHER TRIM," and "SUNGLASSES," having USPTO Reg. No.:1,384,071, and a date of first use in commerce at least as of 1984.

17. Petitioner MSKMARCIANO, INC. is also the owner of the USPTO registered trademark GEORGES MARCIANO, for "CLOCKS AND WATCHES," having USPTO Reg. No.: 1,431,893 and a date of first use in commerce- at least as of 1984.

18. Further, Petitioner MSKMARCIANO, INC. is also the owner of the USPTO registered trademark GEORGES MARCIANO, for "soaps, namely skin soap, toilet soap, and soap for hands, face, and body; perfumes, eau de toilette, after shave lotion, and skin moisturizer; essential oils for personal use; cosmetics, namely lipstick, eyeliner, mascara, blush eyeshadow,

face foundation, and face powder; and hair lotion, hair shampoo, and hair conditioner,” having USPTO Reg. No.: 1,979,116, and a date of first use in commerce at least as of 1990.

**COUNT 1 – CONTRACTUAL ESTOPPEL, against Registration Nos.:2,139,312;  
1,179,281; 3,342,581; 3,015,017; 4,210,799; 4,008,751; and 1,997,798**

19. Petitioners incorporate all of the foregoing paragraphs herein by reference.

20. Guess?, Inc., whom, on information and belief wholly owns and/or controls Registrant, acknowledged and agreed, upon entering into a licensing agreement with Petitioners that Petitioners would “ha[ve] rights to the name, character, symbol, logo, design, likeness and visual representation of ‘Georges Marciano’, and the logo in the form [attached to the agreement] (which name, character, symbol, logo, design, likeness and visual representation and/or each of the individual components thereof shall hereinafter be called the “Mark[.]”)” The word “Marciano” is a part of the mark GEORGES MARCIANO.

21. When Petitioner GEORGES MARCIANO left Guess?, Inc., the licensing agreement between Petitioner GEORGES MARCIANO and Guess?, Inc., was cancelled pursuant to a Cancellation and Reassignment Agreement. Pursuant to this Cancellation and Reassignment Agreement, the licensing agreement between Petitioner GEORGES MARCIANO and Guess?, Inc., allowing Guess?, Inc., to use the name “Georges Marciano” and the individual components thereof, was cancelled and Guess?, Inc., and its agents, including Registrant, were to refrain from using any mark using any part of Petitioner GEORGES MARCIANO’s name.

22. Guess?, Inc., was also required under the Cancellation and Reassignment agreement to transfer all registered GEORGES MARCIANO marks, in all territories, to Petitioner GEORGES MARCIANO and record said transfers with the pertinent government agencies. Guess?, Inc., was also required to let lapse all registrations whereby a GEORGES

MARCIANO mark was used in conjunction with another mark held by Guess?, Inc., (e.g. “Guess by Georges Marciano, etc.)

23. Guess?, Inc., Registrant and Petitioners also entered into a Settlement Agreement whereby: “All parties included in that action will be free to use their names in any way they want in the future without the possibility of any claims of trademark infringement in the future, in the United States and any country where Guess is registered, for claims, known and unknown. Georges Marciano is free to use his name for retail operation immediately for up to five retail stores until August 23, 1995. After that date he is free to use his name any way he wishes in retail and manufacturing.”

24. And, it was understood that under the terms of the settlement agreement between the parties that “MSK Marciano, [Georges Marciano], Guess, Armand, Maurice and Paul each agree not to use the surname ‘Marciano’ except with the first name of the four brothers, and then only when authorized by the brother whose name is used.”

25. Despite these contractual prohibitions, Guess?, Inc., and Registrant applied for and maintained registrations for MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTION trademarks. Guess?, Inc., and Registrant, pursuant to the terms of the Cancellation and Reassignment agreement between the Parties as well as the Settlement Agreement between the parties, were required to forego the pursuit of such marks and/or were required to let the registrations for said marks lapse.

26. And, as a former licensee of Petitioners, Guess?, Inc., and Registrant have acknowledged the superior rights of Petitioners in the name and likeness of Petitioner GEORGES MARCIANO and in Petitioners’ GEORGES MARCIANO marks.

27. Registrant is contractually estopped by law from seeking and maintaining registrations for any mark that contains the surname “Marciano,” including Registrant’s GUESS BY MARCIANO, MARCIANO COLLECTION and MARCIANO marks. Registrant’s attempts to use, register and maintain GUESS BY MARCIANO, MARCIANO COLLECTION and MARCIANO marks are breaches of binding agreements between the parties.

**COUNT 2 – FRAUD ON THE OFFICE Against Registration Nos.:2,139,312; 1,179,281;**

**3,342,581; 3,015,017; 4,210,799; 4,008,751; and 1,997,798**

**(Trademark Act, 15 U.S.C. §1064)**

28. Petitioners incorporate all of the foregoing paragraphs herein by reference.

29. The Trademark Act bars the registration of a mark that consists of or comprises (whether consisting solely of, or having incorporated in the mark) a name, portrait or signature which identifies a particular living individual, except by written consent of such individual. And, a name need not be the person’s full name in order to identify a particular individual.

30. A name is considered to “identify” a particular living individual if the individual bearing the name in question will be associated with the mark as used on the goods or services, either because the person is so well known that the public would reasonably assume a connection, or because the individual is publically connected with the business in which the mark is used.

31. The name “Marciano” is the surname of Petitioner GEORGES MARCIANO. Petitioner GEORGES MARCIANO is a well-known clothing designer, famous throughout the world, and is remembered by consumers as the founder of Guess?, Inc., and Registrant is aware of this, given that Guess?, Inc., was founded by Petitioner GEORGES MARCIANO.

32. When Guess?, Inc., filed the application for the mark MARCIANO COLLECTION on December 2, 1993 (now having the Reg. No. 1,997,798), Guess, Inc., willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

33. When Guess?, Inc., filed the application for the mark MARCIANO on December 17, 1993 (now having the Reg. No. 2,139,312), it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

34. When Guess?, Inc., filed the application for the mark MARCIANO on March 9, 2004 (now having the Reg. No. 3,015,017), it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

35. When Guess?, Inc., filed the application for the mark MARCIANO on September 27, 2006 (now having the Reg. No. 3,342,581), it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

36. When Registrant filed the application for the mark GUESS BY MARCIANO on January 12, 2011 (now having the Reg. No. 4,210,799), it willfully and purposefully failed to

disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

37. When Registrant filed the application for the mark GUESS BY MARCIANO on October 26, 2011 (now having the Reg. No. 4,008,751), it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, with the intent to obtain from the USPTO a registration which would otherwise have been barred by Trademark Act Section 2(c).

38. When Guess?, Inc., filed its applications to renew the registration for the mark MARCIANO COLLECTION (now having the Reg. No. 1,997,798) on or about September 6, 2002 and again on or about September 5, 2006, it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, failed to disclosure to the USPTO that Guess?, Inc., no longer had the right to use any mark containing the surname “Marciano,” and failed to disclosure that Guess?, Inc., was using the mark to misrepresent to consumers that the products and services marketed and sold under this mark were associated with or endorsed by petitioner GEORGES MARCIANO. This was done with the intent to obtain from the USPTO renewal of a registration which would otherwise have been denied.

39. When Guess?, Inc., filed its applications to renew the registration for the mark MARCIANO (now having the Reg. No. 2,139,312) on or about August 12, 2004, and again on or about February 21, 2008, it willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, failed to disclosure to the USPTO that Guess?, Inc., no longer had the right to use

any mark containing the surname “Marciano,” and failed to disclose that Guess?, Inc., was using the mark to misrepresent to consumers that the products and services marketed and sold under this mark were associated with or endorsed by petitioner GEORGES MARCIANO. This was done with the intent to obtain from the USPTO renewal of a registration which would otherwise have been denied.

40. When Registrant filed its application to renew the registration for the mark MARCIANO (now having the Reg. No. 3,015,017) on or about October 13, 2011, Registrant willfully and purposefully failed to disclose to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, failed to disclose to the USPTO that Guess?, Inc., no longer had the right to use any mark containing the surname “Marciano,” and failed to disclose that Guess?, Inc., was using the mark to misrepresent to consumers that the products and services marketed and sold under this mark were associated with or endorsed by petitioner GEORGES MARCIANO. This was done with the intent to obtain from the USPTO renewal of a registration which would otherwise have been denied.

41. When Registrant filed its application to renew the registration for the mark MARCIANO (now having the Reg. No. 3,342,581) on or about October 8, 2013, Registrant willfully and purposefully failed to disclose to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, failed to disclose to the USPTO that Guess?, Inc., no longer had the right to use any mark containing the surname “Marciano,” and failed to disclose that Guess?, Inc., was using the mark to misrepresent to consumers that the products and services marketed and sold under this mark were associated with or endorsed by petitioner GEORGES MARCIANO. This was done with the intent to obtain from the USPTO renewal of a registration which would otherwise have been denied.

42. When Guess?, Inc., and Registrant filed their applications to renew the mark MARCIANO in December 13, 2001 and September 8, 2011, (now having the Reg. No. 1,179,281), they willfully and purposefully failed to disclosure to the USPTO and the examiner that “Marciano” is the surname of a living individual, Petitioner GEORGES MARCIANO, failed to disclosure to the USPTO that Guess?, Inc., no longer had the right to use any mark containing the surname “Marciano,” and failed to disclosure that Guess?, Inc., was using the mark to misrepresent to consumers that the products and services marketed and sold under this mark were associated with or endorsed by petitioner GEORGES MARCIANO. This was done with the intent to obtain from the USPTO renewal of a registration which would otherwise have been denied.

43. Registrant has no right to use the name “Marciano” and has not obtained consent from Petitioner GEORGES MARCIANO to use his name or likeness, or any part thereof.

44. Petitioner alleges that the concealed information was necessarily material to a determination to approve the above mentioned applications for registration and renewal applications. Had the concealed information been provided, a reasonable examiner and the USPTO would have denied registration and renewal of the above described marks.

45. Guess?, Inc., and Registrant had knowledge of the concealed information and made the concealment with the intent to deceive the USPTO so as to obtain a registration and to maintain registrations to which Guess?, Inc., and Registrant were otherwise not entitled.

**COUNT 3 – MISREPRESENTATION OF SOURCE Against Registration Nos.:2,139,312;**

**1,179,281; 3,342,581; 3,015,017; 4,210,799; 4,008,751; and 1,997,798**

**(Trademark Act, 15 U.S.C. § 1064)**

46. Petitioners incorporate all of the foregoing paragraphs herein by reference.

47. GEORGES MARCIANO is a well-known clothing designer, famous throughout the world.

48. Registrant's use of MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION for retail store services to sell men's, women's and children's clothing and accessories. The word "Marciano" and dominant feature of these marks, which is used to catch the attention of consumers and to create the false suggestion in the minds of consumers that there is a connection, or an association between Registrant and Petitioner GEORGES MARCIANO, or that Petitioner GEORGES MARCIANO endorses Registrant's retail activities or goods where no connection, association or endorsement exists.

49. The name "Marciano" is associated solely with, identifies and points uniquely and unmistakably to Petitioner GEORGES MARCIANO.

50. Registrant is using "Marciano" as a key part of its MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION marks, which is the same as, or a close approximation of the name GEORGES MARCIANO.

51. The use of "Marciano" in Registrant's MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION marks would be and is recognized by consumers as the same as, or a close approximation of the name GEORGES MARCIANO.

52. Registrant is not connected with any activities of Petitioners MSKMARCIANO, INC. or GEORGES MARCIANO, or vice versa.

53. Registrant had knowledge of the public recognition of Petitioner GEORGES MARCIANO's name as denoting Petitioner when Registrant uses the marks MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION.

54. The fame and/or reputation of Petitioner GEORGES MARCIANO is such that, when the MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION marks are used with Registrant's services and goods, a connection with Petitioner GEORGES MARCIANO and/or his marks is likely to be perceived as a false association with Petitioner GEORGES MARCIANO by the average reasonable consumer and Registrant, in using the "Marciano" surname, intends this false association and to cause consumer confusion.

55. Registrant employs the marks MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION with the intent to appropriate the substantial goodwill and recognition that have accrued to Petitioner GEORGES MARCIANO in both his likeness and trademarks.

56. The marks MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION, when applied to the goods and services of Registrant, falsely suggests a connection with Petitioner GEORGES MARCIANO and misrepresent Petitioners as the source of those goods and services.

**COUNT 4 – CONFUSING SIMILARITY/PRIORITY Against Registration Nos.:**

**4,210,799; and 4,008,751**

**(Trademark Act § 14(1), §32 & 43(a); 15 U.S.C §1064, §1114 & §1125)**

57. Petitioners incorporate all of the foregoing paragraphs herein by reference.

58. Petitioners have been, under the mark GEORGES MARCIANO and under Petitioner GEORGES MARCIANO's own name, engaged in the sale and marketing of goods highly related to those purportedly sold by and via Registrant's retail services and as recited by Registrant in its registrations for its GUESS BY MARCIANO marks.

59. Petitioners have been using the GEORGES MARCIANO marks and Petitioner GEORGES MARCIANO's name in commerce since long before the date of first use Registrant asserts in its registrations for the marks GUESS BY MARCIANO.

60. Petitioners own all rights, title, and interest in the GEORGES MARCIANO trademarks and Petitioner GEORGES MARCIANO's name.

61. Petitioner GEORGES MARCIANO is a famous designer, well-known in the United States of America and in several other countries around the world.

62. Petitioners' GEORGES MARCIANO trademarks are well known in the United States of America and in several other countries around the world.

63. Registrant's GUESS BY MARCIANO marks are confusingly similar to Petitioners' GEORGES MARCIANO trademarks and name, and are, when applied to the goods and services of Registrant, likely to cause confusion, or to cause mistake or to deceive as understood under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

64. Registrant's GUESS BY MARCIANO marks make a highly similar commercial impression to Petitioner's GEORGES MARCIANO trademarks due to their virtually identical appearance through the use of Petitioner GEORGES MARCIANO's surname. The overall commercial impression of Registrant's marks for goods and for services to sell goods that are the same or similar goods marketed and sold by Petitioners, causes confusion, mistake and is deceptive or is likely to cause confusion, mistake or deception.

65. On information and belief, use of Registrant's GUESS BY MARCIANO marks by Registrant for its services and goods will cause confusions, mistake, and deception with respect to those services and goods, by virtue of the Petitioners' prior use of their GEORGES MARCIANO marks.

66. On information and belief, both Registrant's GUESS BY MARCIANO marks and the Petitioners' GEORGES MARCIANO marks are applied to highly related goods and services and are likely to be sold or offered to the same customers or in similar channels of distribution. Registrant's GUESS BY MARCIANO marks so resemble Petitioners' GEORGES MARCIANO marks, as used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

**COUNT 5 – ABANDONMENT Against Registration Nos.: 2,139,312; 1,179,281; 3,342,581;  
3,015,017; 4,210,799; 4,008,751; and 1,997,798**

**(Trademark Act §15 U.S.C §1064)**

67. Petitioners incorporate all of the foregoing paragraphs herein by reference.

68. On information and belief, from 1994 through 2002, Registrant did not continuously use and/or periodically ceased use in commerce of Registrant's registered MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTION marks, and was without an excuse for such non-use.

69. On information and belief, Registrant did, during the times of non-use of MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTION, abandon its MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTION marks without an intent to resume a bona fide use in the ordinary course of trade, in interstate commerce and/or in the scope of the registrations.

70. The continued registration of Registrant's MARCIANO, GUESS BY MARCIANO and MARCIANO COLLECTIONS marks is inconsistent with Registrant's abandonment and/or non-use of Registrant's MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION marks and has caused and will continue to cause damage to

Petitioners and Petitioners' rights. By virtue of Registrant's abandonment of MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION, the contested registrations are subject to cancellation and should therefore be cancelled.

WHEREFORE, Petitioners therefore pray that Registrant's Registrations for the trademarks MARCIANO, GUESS BY MARCIANO, and MARCIANO COLLECTION, having Registration Nos.:2,139,312; 1,179,281; 3,342,581; 3,015,017; 4,210,799; 4,008,751; and 1,997,798 be cancelled and that this petition be granted in favor of Petitioners.

Dated: November 10, 2015

Respectfully Submitted,

JOHNSON & PHAM, LLP

By: /s/Christopher Q. Pham  
Christopher Q. Pham  
Attorneys for Petitioners  
GEORGES MARCIANO  
and MSKMARCIANO, INC.

**CERTIFICATE OF SERVICE**

I, Christopher Q. Pham, hereby certify that on this 10<sup>th</sup> day of November, 2015, transmitted via First Class USPS Mail, a true and correct copy of the foregoing Petition for Cancellation upon Registrant to the following:

Michael J. MacDermott, Esq.  
G. Warren Bleeker, Esq.  
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