

ESTTA Tracking number: **ESTTA713137**

Filing date: **12/07/2015**

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	Hudson Shoe Agencies Limited		
Entity	Limited Company	Citizenship	United Kingdom
Address	20 Hoxton Square London, N1 6NT UNITED KINGDOM		

Attorney information	Michele P. Schwartz ANDREWS KURTH LLP 1717 Main Street Suite 3700 Dallas, TX 75201 UNITED STATES micheleschwartz@andrewskurth.com, CrystalJamison@andrewskurth.com, dip@akllp.com, BenSetnick@andrewskurth.com Phone:214-659-4528
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Registration Subject to Cancellation

Registration No	4547771	Registration date	06/10/2014
Registrant	VANDERFORD, Andrew T. 1835 E. Willie Court Columbia City, IN 46725 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2014/03/05 First Use In Commerce: 2014/03/05 All goods and services in the class are cancelled, namely: articles of wearing apparel, namely, hats, shirts, jeans, jackets, coats, belts and shoes
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	79134254	Application Date	07/11/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PURIFIED		

Design Mark	
Description of Mark	The mark consists of the word "PURIFIED" beneath a profile of a perched bird.
Goods/Services	<p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Footwear; Footwear, namely, men's footwear, women's footwear, children's footwear, casual footwear, formal footwear, athletic footwear, climbing footwear, waterproof footwear, water repelling footwear, footwear uppers, shoes, athletic shoes, canvas shoes, deck shoes, dress shoes, sports shoes, tennis shoes, golf shoes, waterproof shoes, water repelling shoes, shoe uppers, stiffeners for shoes in the nature of shoe inserts for non-orthopedic purposes, athletic shoes in the nature of trainers, sneakers, slippers, sandals, moccasins, plimsolls, pumps, boots, ankle boots, half-boots, lace boots, hiking boots, wellington boots, waterproof boots, water repelling boots, boot uppers, stiffeners for boots in the nature of boot inserts for non-orthopedic purposes, soles, embossed soles of rubber or plastic material, insoles, inner soles, outer soles, heels, stiletto heels, embossed heels of rubber or plastic material, heel inserts, tips for footwear, toe caps; clothing, namely, shirts, tops, t-shirts, sweaters, blouses, sweatshirts, pants, trousers, slacks, shorts, jeans, coats, jackets, blazers, vests, hosiery, sweatpants, suits, bow ties, neckties, capes, swim wear, dresses, skirts, gowns, pajamas, lingerie, sleepwear, belts, gloves, scarves, hats, caps, parts therefor for all the aforesaid goods; headwear</p>

Attachments	79134254#TMSN.png(bytes) Hudson's Original Petition for Cancellation.pdf(32266 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	/Michele P. Schwartz/
Name	Michele P. Schwartz
Date	12/07/2015

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

HUDSON SHOE AGENCIES LIMITED)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	(Registration No. 4,547,771)
)	
ANDREW VANDERFORD,)	
)	
Registrant.)	

ORIGINAL PETITION FOR CANCELLATION

Hudson Shoe Agencies Limited (“Hudson” or “Petitioner”) believes it is, and will continue to be, damaged by the maintenance of Registration No. 4,547,771 on the Principal Register, and hereby petitions to cancel same. As grounds for cancellation, Petitioner alleges as follows:

1. Upon information and belief, Andrew Vanderford (“Registrant” or “Mr. Vanderford”) is an individual residing at 1835 E. Willie Court, Columbia City, Indiana 46725. Registrant can be served through his attorney of record, James Hudak, at 29425 Chagrin Boulevard, Suite 304, Cleveland, Ohio 44122.

2. Hudson is a Limited Company organized under the laws of the United Kingdom with a place of business at 20 Hoxton Square, London N1 6NT, United Kingdom. Established in 1990, Hudson is an international retailer of contemporary, classic, and original shoes for men and women.

3. Hudson owns Application Serial No. 79/134254 for the mark PURIFIED & Design as depicted below for the following goods:

“Footwear; Footwear, namely, men's footwear, women's footwear, children's footwear, casual footwear, formal footwear, athletic footwear, climbing footwear,

waterproof footwear, water repelling footwear, footwear uppers, shoes, athletic shoes, canvas shoes, deck shoes, dress shoes, sports shoes, tennis shoes, golf shoes, waterproof shoes, water repelling shoes, shoe uppers, stiffeners for shoes in the nature of shoe inserts for non-orthopedic purposes, athletic shoes in the nature of trainers, sneakers, slippers, sandals, moccasins, plimsolls, pumps, boots, ankle boots, half-boots, lace boots, hiking boots, wellington boots, waterproof boots, water repelling boots, boot uppers, stiffeners for boots in the nature of boot inserts for non-orthopedic purposes, soles, embossed soles of rubber or plastic material, insoles, inner soles, outer soles, heels, stiletto heels, embossed heels of rubber or plastic material, heel inserts, tips for footwear, toe caps; clothing, namely, shirts, tops, t-shirts, sweaters, blouses, sweatshirts, pants, trousers, slacks, shorts, jeans, coats, jackets, blazers, vests, hosiery, sweatpants, suits, bow ties, neckties, capes, swim wear, dresses, skirts, gowns, pajamas, lingerie, sleepwear, belts, gloves, scarves, hats, caps, parts therefor for all the aforesaid goods; headwear, in International Class 25.



PURIFIED

4. Hudson has made continuous use of the mark PURIFIED & Design for footwear in United States commerce since August 31, 2012.

5. Hudson filed Application Serial No. 79/134254 on July 11, 2013. Hudson's application was rejected based on Registration No. 4,547,771 owned by Registrant for the mark PURIFLYED, the Examining Attorney finding that there is a likelihood of confusion between Hudson's mark and Registrant's mark.

6. On January 29, 2013, Registrant filed Application Serial No. 76/713321 for the mark PURIFLYED—on an intent-to-use basis—in connection with “articles of wearing apparel, namely, hats, shirts, jeans, jackets, coats, belts and shoes,” in International Class 25. On March

12, 2014, Registrant filed a declaration with the United States Patent and Trademark Office (“USPTO”) relating to his PURIFLYED application, claiming a date of first use in commerce of March 5, 2014,

7. Even assuming, *arguendo*, the veracity of the statements set forth in Registrant’s application and declaration, both the filing date of Registrant’s application (i.e., Registrant’s constructive first-use date) and alleged date of first use in commerce for Registrant’s mark PURIFLYED are well after Hudson began using the mark PURIFIED & Design for its goods.

Likelihood of Confusion

8. Mr. Vanderford’s mark PURIFLYED for the goods listed above is likely to cause confusion with Hudson’s mark PURIFIED & Design for its goods in the minds of the purchasing public. In particular, the appearance, sound, and commercial impression of Registrant’s mark PURIFLYED are nearly identical to that of Hudson’s mark PURIFIED. Furthermore, Registrant’s goods are identical to Hudson’s goods in that they both consist of shoes and wearing apparel. Given the similarities of the marks and goods, there is a likelihood of confusion between Hudson’s mark PURIFIED & Design and Mr. Vanderford’s mark PURIFLYED.

9. Based on the foregoing, Mr. Vanderford’s registration is causing and will continue to cause injury and damage to Hudson unless and until such registration is cancelled.

WHEREFORE, respectfully requests the Registration No. 4,547,771 be cancelled and that this petition for cancellation be sustained.

Date: December 7, 2015

By: /s/ Michele P. Schwartz
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 7th day of December, 2015, a true copy of the foregoing "Original Petition for Cancellation" was served by first-class mail, postage pre-paid on the attorneys for Registrant at the following address:

James A. Hudak
29425 Chagrin Boulevard, Suite 304
Cleveland, Ohio 44122-4637
james_hudak@att.net

/s/ Crystal L. Jamison
Crystal L. Jamison