

ESTTA Tracking number: **ESTTA731390**

Filing date: **03/04/2016**

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

Proceeding	92062865
Party	Defendant LightUpToys.com LLC
Correspondence Address	RICHARD M BLANK 75 S BROADWAY 4TH FLOOR WHITE PLAINS, NY 10601 UNITED STATES rmb@blanklegal.com
Submission	Voluntary Surrender Of Registration
Filer's Name	Richard M. Blank
Filer's e-mail	rmb@blanklegal.com, fpalcino@blanklegal.com
Signature	/Richard M. Blank/
Date	03/04/2016
Attachments	Cancellation_92062865_20160304_VoluntaryCancellation.pdf(80506 bytes )

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

In the matter of trademark Registration No. 4860604  
For the mark MAXX SPINNER  
Registered on Nov. 24, 2015  
-----

TRAXXAS LP

Petitioner,

v.

Cancellation No. 92062865

LightUpToys.Com LLC

Respondent  
-----

**RESPONDENT'S VOLUNTARY SURRENDER OF REGISTRATION FOR  
CANCELLATION**

Respondent Lightuptoys.Com LLC ("Respondent") by its undersigned attorney, hereby surrenders Registration No. 4860604 for cancellation. Despite the voluntary cancellation submitted herewith, Respondent would like for the following information and statements to be made of record.

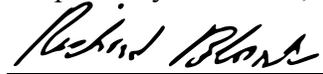
As an initial matter, Petitioner and Respondent were in settlement discussions from as early as November 5, 2015 through January 5, 2016 (the "Settlement Discussions"). The communications and exchange of information between Petitioner and Respondent during the Settlement Discussions were marked as and understood to be confidential communications used for settlement purposes only. Respondent submits that Petitioner filed Cancellation No. 92062865 on December 15, 2015 while the Settlement Discussions were ongoing and used confidential information obtained by Petitioner from Respondent through the Settlement Discussions as a basis for the allegations in Petitioner's Petition for Cancellation.

The Settlement Discussions between Petitioner and Respondent ended on or around January 5, 2016 at a time that was at most one month prior to the deadline for Respondent to file

an Answer. Respondent conducts its business within and outside of the United States of America and travels extensively between the United States of America and China. During the month of January 2016, the owners and managers of Respondent were living and conducting business in China. During this time, an Answer to Petitioner's Petition to Cancel denying a majority of Petitioner's allegations was drafted. Prior to the submission of the Answer to the Board and Petitioner by the February 5, 2016 deadline, Respondent advised its undersigned attorney that changes were being implemented to the marketing strategies for products bearing the MAXX SPINNER mark, that such changes could affect Respondent's Answer to Petitioner's allegations, and that Respondent was considering voluntarily surrendering the MAXX SPINNER registration for cancellation rather than burdening the Trademark Trial and Appeal Board (the "Board") any further. Respondent made a good faith effort to communicate with Petitioner through counsel regarding Respondent's motion to be filed on February 5, 2016. Counsel for Petitioner contacted the Carr Law Firm PLLC regarding Petitioner's willingness to consent to a motion to extend Respondent's time to file an Answer. Matthew Phillips of the Carr Law Firm PLLC assured Respondent via a telephone conversation that Petitioner's counsel would provide a response to Respondent prior to the deadline to file the Answer and/or motion. Neither Petitioner nor counsel for Petitioner contacted Respondent or its undersigned attorney. Because Respondent was in the midst of making changes to the marketing strategy for goods bearing the MAXX SPINNER mark and neither Petitioner nor counsel Petitioner responded to the undersigned attorney's request for consent to file a Motion for Extension with consent, Respondent filed a Motion for an Extension of Time to Answer without consent on February 5, 2016 ("Respondent's Motion"). Petitioner and Respondent continued to discuss Respondent's willingness to voluntarily surrender its MAXX SPINNER registration after Respondent's filing of Respondent's Motion. Despite Respondent's claim that "there is no reason [Respondent] could not have filed its Answer and, if its responses were in fact subsequently affected, sought to file an amended Answer," (page 7 of Petitioner's Brief in Response to Registrant's Motion for an Extension of Time to Answer), Respondent submits that the choice to file Respondent's Motion instead of an Answer and an amended Answer was made in an effort to not burden the Board with additional filings, motions, and briefs to review when Respondent was considering voluntarily cancelling its MAXX SPINNER registration.

Dated: March 4, 2016  
White Plains, New York

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Blank". The signature is written in a cursive style with a horizontal line underneath it.

---

Richard M. Blank, Esq.  
Attorney for Respondent  
75 S. Broadway, 4<sup>th</sup> Floor  
White Plains, New York 10601  
Phone: (917) 830-4702  
Email: [rmb@blanklegal.com](mailto:rmb@blanklegal.com)

Certificate of Service

I hereby certify that a true and complete copy of the foregoing VOLUNTARY SURRENDER OF REGISTRATION FOR CANCELLATION has been served on GREGORY W CARR by mailing said copy on March 4, 2016, via First Class Mail, postage to:

GREGORY W CARR  
Carr Law Firm PLLC  
6170 Research Rd., Suite 111  
Frisco, TX 75033  
trademarks@carrip.com  
Phone: 214-760-300



---

Richard M. Blank, Esq.