

ESTTA Tracking number: **ESTTA733408**

Filing date: **03/14/2016**

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	Spark Yoga LLC		
Entity	LLC	Citizenship	VIRGINIA
Address	8516 Indian Paintbrush Way Lorton, VA 22079 UNITED STATES		

Attorney information	Gregory P. Brummett Brummett TechLaw PLLC 2201 Cooperative Way, Suite 600 HERNDON, VA 20171 UNITED STATES greg@brumtechlaw.com Phone:8666538600		
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Registration Subject to Cancellation

Registration No	4457399	Registration date	12/31/2013
Registrant	Rose, Jill 4024 58th place southwest Seattle, WA 98116 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2012/05/05 First Use In Commerce: 2012/06/05
All goods and services in the class are cancelled, namely: Yoga instruction

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.	86698076	Application Date	07/20/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SPARK YOGA		

Design Mark	SPARK YOGA
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2007/05/02 First Use In Commerce: 2007/05/02 Physical fitness instruction; physical fitness training of individuals and groups; education and training services, namely, providing classes, information, and discussions in the field of exercise, fitness, wellness, and personal development

Attachments	86698076#TMSN.png(bytes) 2016-03-14_Pet_to_Cancel.pdf(33311 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	/Gregory P. Brummett/
Name	Gregory P. Brummett
Date	03/14/2016

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

Spark Yoga LLC		In re Registered Trademark:
Petitioner,		Spark! Yoga and Creative Arts
		Celebrate • Empower • Ignite
v.		Reg. No.: 4457399
Jill Rose		Reg. Date: December 31, 2013
Registrant.		Petitioner's Mark: Spark Yoga
		Petition No.:

STATEMENT IN SUPPORT OF PETITION TO CANCEL

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Madam:

Spark Yoga LLC, a Virginia limited liability company, (“Petitioner”) located and doing business at 8516 Indian Paintbrush Way, Lorton, Virginia, 22079, believes it will be damaged by the registration by Jill Rose (“Rose” or “Registrant”) of the mark as shown in Registration No. 4457399 and hereby petitions to cancel the same.

As grounds for opposition, Petitioner alleges:

1. Registrant filed a trademark application for the combined mark “Spark! Yoga and Creative Arts Celebrate • Empower • Ignite” (“Registrant’s Mark”) that was assigned Application Serial No. 85/683,548 in the United States Patent and Trademark Office (“PTO”) on July 21, 2012, for use in connection with “instruction in the field of art; yoga instruction” in International Class 041, alleging a first use in commerce of June 5, 2012.

2. After amendment of the goods and services, Registrant’s Mark was added to the Principal Register on December 31, 2013, for use in connection with “yoga instruction.”

3. This Petition is being filed within five years of the registration of Registrant's Mark.

4. To the best of petitioner's knowledge, the name and address of the current owner of the registration are Jill Rose, 4024 58th Place SW, Seattle, Washington, 98116.

5. Petitioner filed an application for the mark "SPARK YOGA" ("Petitioner's Mark") on July 20, 2015, that was assigned Application Serial No. 86/698,076, for use in connection with "physical fitness instruction; physical fitness training of individuals and groups; education and training services, namely, providing classes, information, and discussions in the field of exercise, fitness, wellness, and personal development" in International Class 041, asserting a first use in commerce of at least May 2, 2007.

6. In the Office Action dated November 5, 2015, registration of Petitioner's Mark was refused because of an alleged likelihood of confusion with, *inter alia*, Registrant's Mark.

7. Petitioner is the owner of the website www.sparkyoga.com, a website that was established on June 5, 2005, and that has, since at least May 2, 2007, prominently displayed Petitioner's Mark on at least the home page in connection with services including physical fitness instruction and training of individuals and groups as well as classes, information, and discussions in the field of exercise, fitness, wellness, and personal development.

8. Petitioner's Mark is prominently displayed on various social media accounts including, for example, Facebook under Spark Yoga that has been active since at least June 2013, and, more recently, Instagram, under [spark_yoga](#), and Twitter under [@Spark_Yoga](#).

9. Petitioner's facilities and/or training offerings have favorably reviewed in substantial regional publications including, for example, the *Washingtonian* (reported readership in excess of 300,000) on December 12, 2013, and, more recently, the *Northern Virginia Magazine* (reported readership in excess of 150,000).

10. Use of Petitioner's Mark was open, notorious and of sufficient time, distribution, and duration prior to December 31, 2013, to establish priority over Registrant's Mark.

11. WHEREFORE, Opposer respectfully requests that registration of Registrant's Mark as shown in Registration No. 4457399 be cancelled and that this Petition be sustained in favor of Petitioner.

Please deduct any additional fees that may be due or credit any overpayment in connection to this Petition to deposit Account 506244.

Dated: March 14, 2016

Respectfully submitted,
BRUMMETT TECHLAW, PLLC

By: /Gregory P. Brummett/
Gregory P. Brummett

2201 Cooperative Way
Suite 600
Herndon, VA 20171
(866) 653-8600 (ext 1)

STATEMENT OF SERVICE

On March 14, 2016, true and accurate copies of the *Petition to Cancel* and this *Statement in Support of Petition to Cancel* were served via first-class mail, postage prepaid, on:

Jill Rose
4024 58th Place, SW
Seattle, Washington, 98116

By: /Gregory P. Brummett/
Gregory P. Brummett