

ESTTA Tracking number: **ESTTA734822**

Filing date: **03/21/2016**

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	Serious, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	408 Greenbriar Drive Avon Lake, OH 44012 UNITED STATES		

Correspondence information	Richard M. Klein Attorney for Petitioner Fay Sharpe LLP 1228 Euclid Avenue 5th Floor Cleveland, OH 44115 UNITED STATES rklein@faysharpe.com, sbobka@faysharpe.com, lkalemba@faysharpe.com, docketing@faysharpe.com, ghuang@faysharpe.com, bwerner@faysharpe.com Phone:216.363.9000
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Registration Subject to Cancellation

Registration No	4017207	Registration date	08/23/2011
Registrant	Buss General Partner Co. Ltd. 11765 Summit Crescent Delta, CANADA		

Goods/Services Subject to Cancellation

Class 006. First Use: 2010/10/15 First Use In Commerce: 2011/02/15 All goods and services in the class are cancelled, namely: Metal vent cover for HVAC ducts
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Grounds for Cancellation

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Related Proceedings	United States District Court for the Northern District of Ohio, Case No. 15-cv-1256, Buss General Partner Co. Ltd. v. Serious, Inc., et al.
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Attachments	2016 03 21 TTAB Petition to Cancel.pdf(22620 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	/s/Richard M. Klein
Name	Richard M. Klein
Date	03/21/2016

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

In the matter of Trademark Registration No. 4,017,207
For the mark BASEBOARDERS
Date registered August 23, 2011

Serious Inc.)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	
Buss General Partner Co. Ltd.)	
)	
Respondent.)	
_____)	

PETITION TO CANCEL

Attention: TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Petitioner, Serious Inc., a company organized and existing under the laws of the State of Ohio and having its principal place in Avon Lake, Ohio, believes that it will be damaged by the continued registration of the design mark BASEBOARDERS, subject of U.S. Trademark Registration No. 4,017,207, owned by Respondent, Buss General Partner Co. Ltd., registered in association with "Metal vent covers for HVAC ducts" in International Class 6, and hereby petitions for cancellation of the registration.

As grounds for this petition, Petitioners allege:

1. Petitioner, Serious Inc., is an Ohio corporation, having its principal place in Avon Lake, Ohio.

2. Upon information and belief, Respondent is a Canadian corporation.
3. Respondent received U.S. Trademark Registration No. 4,017,207 for the BASEBOARDERS design mark on August 23, 2011 (“the ‘207 registration”). The claimed goods covered by the ‘207 registration are “Metal vent covers for HVAC ducts” in International Class 6, which is a synonym for baseboard heater covers.
4. The description of the mark indicates that the mark consists of the word “BASEBOARDERS” with the outline of three circles above the letters “BOA” and three circles below. The overwhelming commercial impression of the mark is that of the word BASEBOARDERS.
5. At best, Respondent’s mark is merely descriptive under 15 U.S.C. § 1052(e)(1).
6. Respondent’s BASEBOARDERS mark describes an ingredient, quality, characteristic, function, feature, purpose, or use of Respondent’s goods. This includes the use of the goods on baseboard heaters.
7. Respondent’s BASEBOARDERS mark immediately conveys knowledge of a quality, feature, function, or characteristic of Respondent’s goods. For example, the circles indicate the shape of the holes in the baseboard heater covers.
8. Respondent’s claimed goods are “[m]etal vent covers for HVAC ducts,” such as covers for baseboard heaters or radiators. Respondent’s BASEBOARDERS mark, when used on or in connection with the claimed goods, is merely descriptive. This is illustrated by Respondent’s own website, www.BaseboardHeaterCovers.com.
9. Accordingly, the ‘207 registration should not be on the Principal or Supplemental Register because it is merely descriptive and therefore unable to function as a trademark and gain secondary meaning in the marketplace.

WHEREFORE, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064, Petitioner believes, and therefore avers, that they will be damaged by continued registration of the BASEBOARDERS mark and pray that Registration No. 4,017,207 be cancelled and that this cancellation proceeding be sustained in Petitioner's favor.

The fee required by 37 C.F.R. § 2.6(a)(16) accompanies this Petition.

Respectfully submitted,

Date: March 21, 2016

/Richard M. Klein/
Richard M. Klein (0029451)
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that this PETITION TO CANCEL was filed electronically with the United States Patent and Trademark Office, Trademark Trial and Appeal Board on March 21, 2016, and that a true and complete copy of the foregoing PETITION TO CANCEL has been served on the following Correspondent, as listed on the TSDR website of the United States Patent and Trademark Office, by mailing said copy via First Class Mail, postage prepaid, to:

Buss General Partner Co. Ltd.
11765 Summit Crescent
Delta, Canada

/Richard M. Klein/
Richard M. Klein
Attorney for Petitioner

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