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Filing date: **04/11/2016**

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	Prospector Capital Partners, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	30 Wall Street 8th Floor New York, NY 10005 UNITED STATES		

Correspondence information	Rod Underhill Attorney Prospector Capital Partners, Inc. PO Box 1238 Julian, CA, CA 92036 UNITED STATES MP3Rod@aol.com Phone:6195400631
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Registrations Subject to Cancellation

Registration No	4859780	Registration date	11/24/2015
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2009/11/01 First Use In Commerce: 2009/11/01 All goods and services in the class are cancelled, namely: Commercial information and advice for consumers; online and retail store services featuring golf accessories
Class 041. First Use: 1997/05/00 First Use In Commerce: 1997/05/00 All goods and services in the class are cancelled, namely: Golf course and club house services; golf courses; entertainment in the nature of golf tournaments; golf instruction; conducting of professional golf competitions; social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for clubmembers

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	4874427	Registration date	12/22/2015
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2015/04/12 First Use In Commerce: 2015/04/12
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All goods and services in the class are cancelled, namely: Political action committee services, namely, promoting public awareness of political issues

Class 036. First Use: 2015/05/22 First Use In Commerce: 2015/05/22

All goods and services in the class are cancelled, namely: Fundraising in the field of politics

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	4813593	Registration date	09/15/2015
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 039. First Use: 2014/10/06 First Use In Commerce: 2014/10/06

All goods and services in the class are cancelled, namely: Limousine services

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	4087954	Registration date	01/17/2012
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 1985/02/00 First Use In Commerce: 1985/02/00

All goods and services in the class are cancelled, namely: Gambling services

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	4462986	Registration date	01/07/2014
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 021. First Use: 2011/06/00 First Use In Commerce: 2011/06/00

All goods and services in the class are cancelled, namely: Toothbrush holders; soap dishes; drinking glasses, namely, tumblers; lotion dispensers; soap dispensers; cotton ball jars; trays not of precious metal; ceramic tissue box covers

Class 024. First Use: 2010/11/00 First Use In Commerce: 2010/11/00

All goods and services in the class are cancelled, namely: bed blankets; duvets; duvet covers; bed-skirts; quilts; pillow shams; comforters; shower curtains; towels; wash cloths

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3360783	Registration date	12/25/2007

Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES
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Goods/Services Subject to Cancellation

Class 014. First Use: 2005/04/25 First Use In Commerce: 2005/04/25 All goods and services in the class are cancelled, namely: Jewelry
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Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3687022	Registration date	09/22/2009
Registrant	DTTM OPERATIONS LLC 725 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2005/03/03 First Use In Commerce: 2005/03/03 All goods and services in the class are cancelled, namely: Dress shirts

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	41115 Trump Petition to Cancel Final Draft.pdf(254520 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	/RodUnderhill/
Name	Rod Underhill
Date	04/11/2016

Mr. Trump withdrew his Opposition, with prejudice, on 03/23/2016 prior to the conclusion of Petitioner's trial testimony period. The TRUMP YOUR COMPETITION mark should receive its registration number in short order, however, the owner's common law rights in the TRUMP YOUR COMPETITION mark provide proper standing for this Petition.

The grounds for cancellation are as follows:

1. Registrant Donald J. Trump licensed his TRUMP house mark, which consists of his famous name, associated goodwill, brand and intellectual property value, as embodied in two TRUMP UNIVERSITY registered marks, Registration No.'s 3321564, and 3112873, to his "TRUMP UNIVERSITY" entity. Registration No.'s 3321564, and 3112873 are now both dead.
2. Donald J. Trump failed to exercise appropriate control and supervision over his TRUMP UNIVERSITY licensees, which resulted in an abandonment of all TRUMP marks listed herein as subjects of this prayer for cancellation. *Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena*, 293 F. Supp. 892, 918 (S.D.N.Y.1968) ("a 'naked' license may be the basis for an inference of abandonment where the licensor maintains no control over the quality of goods made by the licensee"). *Zoba International Corp. v. DVD Format/Logo Licensing Corp.*, 98 USPQ.2d 1106 (TTAB 2011) also establishes naked licensing as proper cause for the cancellation of a mark. Trademark Act section 14 provides for abandonment as a proper cause of action for cancellation.
3. Donald J. Trump also purposely took part in the degradation of his TRUMP house mark through the many actions he personally took to promote the TRUMP UNIVERSITY scheme, as described herein this Petition and as shall be presented at trial, and such actions, were intentional, unintentional or negligent acts of abandonment of the TRUMP house mark. The license agreement that Mr. Donald J. Trump issued to the TRUMP UNIVERSITY licensee did not contain any quality control provisions; or it did not give the licensor supervisory authority over the licensee; or the licensor never tried to exercise such authority, resulting in naked licensing of the TRUMP house mark, an integral part of the TRUMP UNIVERSITY branding, marketing and sales.

Petitioner alleges that the TRUMP name, brand, and house mark were the subject of naked licensing during the TRUMP UNIVERSITY scheme.

4. Registrant's TRUMP name and mark may have once been exclusively associated with luxury and prestige, but by perverting his famous household name and brand on a national level through the results of naked licensing, it is now associated with RICO centric allegations, and allegations of a host of violations regarding consumer protection laws on a Federal scale, and in three of the most populated states of our nation. And the house mark, name and brand of "TRUMP" will forever be associated with the operation of a fake "University" that has been the subject of repeated lampooning by national newspaper cartoonists and Mad Magazine among other national media outlets. TRUMP UNIVERSITY service purchasers did not receive the "luxury and prestige" of a TRUMP education, rather, they received a card board cut out of Donald J. Trump and little more if anything, and the public is now aware of this degradation in the TRUMP house brand, name and mark.

5. A court of competent jurisdiction in New York State has found Donald J. Trump, the original registrant of the TRUMP UNIVERSITY Marks, to be in violation of New York State Educ. Law § § 5001-5010 regarding the TRUMP UNIVERSITY business, which was a licensee of Mr. Trump's TRUMP house mark, name and brand. Accordingly, there has been a judicial finding that TRUMP UNIVERSITY, and the related use of the TRUMP house mark, amounted to unlawful use in commerce. Mr. Trump awaits the court to rule on the amount of financial damages he must pay his victims to compensate them due to his unlawful use of TRUMP UNIVERSITY in commerce. Petitioner alleges that it was the TRUMP house mark that empowered the unlawful TRUMP UNIVERSITY commercial enterprise. Through the unlawful use and naked licensing of the TRUMP UNIVERSITY marks and embodied TRUMP house mark, the Registrant, prior to the recent assignment of his hundreds of registered marks that consist in whole or in part of the TRUMP house mark, has unintentionally or intentionally abandoned the TRUMP house mark, including and

particularly the marks that the Petitioner seeks to cancel.

6. Mr. Trump is shortly personally facing trial involving a civil allegation of fraud filed by the Attorney General of the State of New York, regarding the TRUMP UNIVERSITY matter. Petitioner reserves the right to amend this Petition should a true finding be made by the New York courts that Mr. Trump committed fraud in conjunction with the use of his TRUMP UNIVERSITY marks and/or his TRUMP house mark. The facts alleged by the Attorney General regarding his claim of fraud are subject to proof at trial in this Cancellation proceeding and will support the Petitioner's claim of naked licensing of the TRUMP house mark, name and brand.

7. Donald J. Trump, the original registrant and assignor of each of the marks that Petitioner seeks to cancel, is also facing current Federal Class Action litigation in the State of California in two different class actions, where he is also shortly facing trial. Plaintiffs in those class actions allege that Trump University and Mr. Trump violated federal law across the country and state law (in California, Florida, and New York) by promising, but not delivering, access to Mr. Trump's real estate techniques claimed to be taught by his "hand-picked" professors at an elite "university," when in fact Mr. Trump was not substantively involved in the promoted "Live Events curriculum" and was not personally involved in the selecting of the "University" instructors and the New York State Education Department had warned Mr. Trump it was unlawful to call TRUMP UNIVERSITY a "university." The facts alleged in both class actions are subject to proof in this Cancellation proceeding and shall prove that the TRUMP house mark was the subject of naked licensing. Said naked licensing was national in nature.

8. The Cohen (Nationwide) Action alleges that Mr. Trump was involved with a fraudulent scheme that violates the Racketeer Influenced and Corrupt Organizations Act ("RICO".) The Petitioner alleges that the business activities Mr. Trump engaged in while promoting the TRUMP UNIVERSITY scheme, and the actions the licensee and licensor both engaged in regarding that resulted in the improper exploitation of the TRUMP house mark, as embodied in the TRUMP

UNIVERSITY marks, as described in the allegations of the Class Plaintiffs in the Cohen Action, amounted to abandonment due to naked licensing, and shall be proved by competent evidence in this cancellation proceeding.

9. The Makaeff (California/Florida/New York) Action alleges that TRUMP UNIVERSITY and Mr. TRUMP engaged in statements to consumers that constitute a violation of the unfair trade, competition and false advertising laws of California, Florida, and New York, as well as laws of California and Florida specifically protecting senior citizens from financial abuse. The Petitioner alleges that the actions Mr. Trump took in promoting the TRUMP UNIVERSITY matter, and the actions the licensee took regarding the exploitation of the TRUMP house mark as embodied in the TRUMP UNIVERSITY marks, and the actions Mr. Trump and his TRUMP UNIVERSITY licensees engaged in as they conducted the planning and operation of the TRUMP UNIVERSITY scheme, as described in the allegations of the Class Plaintiffs in the Makaeff Action, amounted to abandonment due to naked licensing. Petitioner further alleges that Mr. Trump has unclean hands regarding the TRUMP UNIVERSITY matter, and the related use of the TRUMP name, brand and house mark, and as such, is a proper claim to also support this Consolidated Petition to Cancel, as unclean hands is permitted by law to be used as an offense as well as a defense. The facts alleged in the Makaeff Action shall be subject to proof via competent evidence submitted during trial by the Petitioner and shall support a finding of naked licensing in this cancellation proceeding.

10. Petitioner reserves the right to amend this Petition should there be a true finding of any or all of the allegations of violations of the Federal, New York, California or Florida law regarding Mr. Trump and/or the TRUMP UNIVERSITY entity as involving the TRUMP UNIVERSITY scheme, in either or both the Cohen and Makaeff Actions, and/or a finding of fraud against Mr. Trump or the TRUMP UNIVERSITY entity in the Courts of New York as is being currently sought by the Attorney General of New York State.

11. Each of the marks that the Petitioner seeks to cancel consists solely of the TRUMP house mark, name and brand. Petitioner alleges that the TRUMP house mark has been abandoned for the reasons stated herein this Petition and therefore seeks to cancel each and every said registration listed herein. The unlawful use in commerce of the TRUMP house mark in conjunction with TRUMP UNIVERSITY has resulted in a loss of priority regarding all registered TRUMP marks using the TRUMP house mark as the sole element, or a dominate element, owned or assigned by the Registrant, including the registrations plead herein.

12. By not enforcing the terms of the TRUMP house mark's license during the TRUMP UNIVERSITY scheme, or otherwise engaging in naked licensing, the licensor forfeited his rights to enforce the exclusive nature of the TRUMP house mark, name and brand. The naked licensing of the TRUMP house mark, name and brand was inherently deceptive to the consumer. Mr. Donald J. Trump, as licensor, did not retain express contractual control over the licensee's quality control measures; (2) did not have actual control over the licensee's quality control measures; and (3) if the trademark owner contends it relied on the licensee's own quality control measures, such reliance was unreasonable. The naked licensing of the TRUMP house mark during the TRUMP UNIVERSITY scheme supports the loss of all rights in the TRUMP house mark and all marks that embody the TRUMP house mark as a dominate feature of such marks and all marks that consist of the typed TRUMP drawing.

13. Registrant Donald J. Trump, as the individual Registrant and owner of all variations of his house mark, failed to ensure that the TRUMP UNIVERSITY marks were used by the licensee in such a manner that there was reasonable quality control over the TRUMP UNIVERSITY services in such a way to provide consumers with a service that benefitted from reasonable quality control that was designed to provide a service that provided the nature and quality of educational services sold under the TRUMP mark to be consistent and predictable and of equal quality in comparison to the public's reasonable expectations for services offered under the

TRUMP house mark, name and brand. It was the lack of any such consistent and predictable quality control that fueled the TRUMP UNIVERSITY scheme and caused millions of dollars of financial harm to American consumers.

14. During the first quarter of the year 2016, Donald J. Trump, Registrant, assigned each of his many “TRUMP” marks, including marks that consisted only of the word TRUMP, and/or consisted of the word TRUMP along with design elements, to an entity that he created called DTTM OPERATIONS, LLC. That bulk transfer was *void ab initio*, that is, at the time of the transfer the transfer had no legal meaning or effect, because due to prior abandonment of all TRUMP related marks, there was nothing to transfer to DTTM OPERATIONS, LLC. The Petitioner reserves the right to add Registrant Donald J. Trump as a defendant to this Petition at a later date and to amend this Petition for that purpose as the legal claims herein related to actions he personally took while he was the owner and registrant of all TRUMP related marks mentioned herein this Petition.

15. The naked licensing described herein this Petition resulted in Donald J. Trump, the licensor, failing to exercise quality control of his licensee’s goods or services to ensure that the licensed mark continued to signify a single source of origin and also resulted in a failure of uniform and predictable quality of goods or services offered under the TRUMP mark. The Lanham Act provides that a trademark is deemed abandoned when the mark owner's course of conduct causes the mark to lose its significance as a mark (15 U.S.C. § 1127). If a trademark licensor does not exercise adequate quality control over a licensee's activities, the licensed mark may lose its trademark significance, as it no longer signifies a single source and uniform quality, two core functions of a trademark. Therefore, consumers may be deceived and a court or administrative tribunal may find that the license is "naked," resulting in abandonment of the mark or other limitation of rights [Barcamerica Int'l USA Trust v. Tyfield Imps., Inc., 289 F.3d 589 (9th Cir. 2002)].

16. In the instant case, the Petitioner alleges that consumers were deceived by the TRUMP UNIVERSITY as a result of a naked license and that the TRUMP house mark has been abandoned, causing a cascading effect of abandonment across all TRUMP marks, that is marks owned by Donald J. Trump, or assigned by Donald J. Trump that contain the word TRUMP as a dominant feature.

17. The Petitioner prays to cancel the following marks, each of which were not pleaded or mentioned by Opposer in the Notice of Opposition No. 91217618, regarding Opposition each of which embodies solely the TRUMP house mark, which are typed marks or have design as noted above, including those marks that are registered in multiple classes, and all classes thereto, and cause damage to Petitioner as alleged herein:

- Registration No. 4,859,780 (TRUMP)
- Registration No. 4,874,427 (TRUMP)
- Registration No. 4,813,593 (TRUMP)
- Registration No. 4,087,954 (TRUMP)
- Registration No. 4,462,986 (Stylized) (TRUMP)
- Registration No. 3360783 (Stylized) (TRUMP)
- Registration No. 3687022 (TRUMP)

8. WHEREFORE, Petitioner believes that it has been, is, and/or will be damaged by said registrations and pray that each of them be cancelled.

Respectfully submitted,

Date: April 11, 2016

By:  _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing
CONSOLIDATED PETITION TO CANCEL

is being served on April 11, 2016 by first class mail upon listed

owner as follows:

DTTM OPERATIONS LLC
725 FIFTH AVENUE
NEW YORK NEW YORK 10022

Dated: Julian, California

April 11, 2016



Rod Underhill