

ESTTA Tracking number: **ESTTA773839**

Filing date: **09/29/2016**

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	Putian Qingchunzhijia Sports Goods Co., Ltd.		
Entity	Limited Company	Citizenship	China
Address	Xueyuan North Road 698 Gongchen Street Putian City, Fujian Province, CHINA		

Attorney information	Ben Natter Natter & Natter 501 Fifth Avenue New York, NY 10017 UNITED STATES ben@natterip.com
----------------------	--

**Registration Subject to Cancellation**

Registration No	4888794	Registration date	01/19/2016
Registrant	YUANDA CHEN Chengxiang District, Putian, Fujian, CH Arcadia, CA 91007 UNITED STATES		

**Goods/Services Subject to Cancellation**

<p>Class 025. First Use: 2015/02/28 First Use In Commerce: 2015/02/28 All goods and services in the class are cancelled, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball shoes; Bath sandals; Beach shoes; Boots for sport; Bottoms; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Canvas shoes; Climbing shoes; Coats for men and women; Combinations; Cycling shoes; Dance shoes; Embossed soles and heels of rubber or of plastic materials; Footwear for men and women; Gloves as clothing; Golf shoes; Heel pieces for shoes; Hoods; Jackets; Jackets and socks; Japanese style sandals (zori); Japanese toe-strap sandals (asaura-zori); Jeggings, namely, pants that are partially jeans and partially leggings; Jerseys; Leisure shoes; Men's and women's jackets, coats, trousers, vests; Rubber shoes; Sandal-clogs; Sandals; Sandals and beach shoes; Shirts and short-sleeved shirts; Shirts and slippers; Shoe accessories, namely, fitted decorative covers for shoes; Shoe pegs; Shoe soles; Shoe straps; Shoes; Shoes with hook and pile fastening tapes; Short sets; Skirts and dresses; Soccer shoes; Socks and stockings; Sport coats; Sport shirts; Sport stockings; Sports bra; Sports bras; Sports caps and hats; Sports jackets; Sports jerseys; Sports jerseys and breeches for sports; Sports pants; Sports shirts; Sports shirts with short sleeves; Sports shoes; Sports vests; Tennis shoes; Tops; Track and field shoes; Training shoes; Volleyball shoes; Warm up outfits; Waterproof jackets and pants; Women's clothing, namely, shirts, dresses, skirts, blouses; Women's hats and hoods; Women's shoes; Women's shoes, namely, foldable flats; Wooden shoes; Work shoes and boots; Wraps</p>
--

**Grounds for Cancellation**

Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp.,
--------------------	--

	580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
--	--

Attachments	Cancellation 0929.pdf(47888 bytes )
-------------	-------------------------------------

### **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	//Ben Natter//
Name	Ben Natter
Date	09/29/2016

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

-----X  
Putian Qingchunzhijia Sports Goods Co., Ltd. :

Petitioner, :

v. : CANCELLATION NO.:

YUANDA CHEN :

Registrant. :

-----X

To: Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**PETITION FOR CANCELLATION**

Petitioner, Putian Qingchunzhijia Sports Goods Co., Ltd. ("Petitioner"), a limited company organized under the laws of China, having a place of business at Xueyuan North Road 698, Gongchen Street, Putian City, Fujian Province, China, believes that it is and will continue to be damaged by Registration No. 4,888,794, and pursuant to 15 U.S.C. § 1064 et seq. and 37 C.F.R. § 2.111, hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. On May 19, 2015, Registrant filed application Serial No. 86/634,623 for registration on the Principal Register for the mark ONEMIX, including design (hereinafter "ONEMIX") in connection with the following goods in international class 25:

Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball shoes; Bath sandals; Beach shoes; Boots for sport; Bottoms; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Canvas shoes; Climbing shoes; Coats for men and women; Combinations; Cycling shoes; Dance shoes; Embossed soles and heels of rubber or of plastic materials; Footwear for men and women; Gloves as clothing; Golf shoes; Heel pieces for shoes; Hoods; Jackets; Jackets and socks; Japanese style sandals (zori); Japanese toe-strap sandals (asaura-zori); Jeggings, namely, pants that are partially jeans and partially leggings; Jerseys; Leisure shoes; Men's and women's jackets, coats, trousers, vests; Rubber shoes; Sandal-clogs; Sandals; Sandals and beach shoes; Shirts and short-sleeved shirts; Shirts and slippers; Shoe accessories, namely, fitted decorative covers for shoes; Shoe pegs; Shoe soles; Shoe straps; Shoes; Shoes with hook and pile fastening tapes; Short sets; Skirts and dresses; Soccer shoes; Socks and stockings; Sport coats; Sport shirts; Sport stockings; Sports bra; Sports bras; Sports caps and hats; Sports jackets; Sports jerseys; Sports jerseys and breeches for sports; Sports pants; Sports shirts; Sports shirts with short sleeves; Sports shoes; Sports vests; Tennis shoes; Tops; Track and field shoes; Training shoes; Volleyball shoes; Warm up outfits; Waterproof jackets and pants; Women's clothing, namely, shirts, dresses, skirts, blouses; Women's hats and hoods; Women's shoes; Women's shoes, namely, foldable flats; Wooden shoes; Work shoes and boots; Wraps.

2. Application No. 86/634,623 matured into Reg. No. 4,888,794 on Jan. 19, 2016 in connection with all of the goods listed in the application and is the subject of this cancellation.

3. Upon information and belief, Registrant is an individual of China with a principal place of business at Chengxiang District, Putian, Fujian, China.

4. On May 19, 2015, Registrant submitted a declaration to the USPTO in which he

stated that the mark had been in use in commerce since February 28, 2015, in connection with all of the above-listed goods.

5. Upon information and belief, Registrant is not using, and has never used, the mark ONEMIX in connection with the following goods:

Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball shoes; Bath sandals; Beach shoes; Boots for sport; Bottoms; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Canvas shoes; Climbing shoes; Coats for men and women; Combinations; Cycling shoes; Dance shoes; Embossed soles and heels of rubber or of plastic materials; Footwear for men and women; Gloves as clothing; Golf shoes; Heel pieces for shoes; Hoods; Jackets; Jackets and socks; Japanese style sandals (zori); Japanese toe-strap sandals (asaura-zori); Jeggings, namely, pants that are partially jeans and partially leggings; Jerseys; Leisure shoes; Men's and women's jackets, coats, trousers, vests; Rubber shoes; Sandal-clogs; Sandals; Sandals and beach shoes; Shirts and short-sleeved shirts; Shirts and slippers; Shoe accessories, namely, fitted decorative covers for shoes; Shoe pegs; Shoe soles; Shoe straps; Shoes; Shoes with hook and pile fastening tapes; Short sets; Skirts and dresses; Soccer shoes; Socks and stockings; Sport coats; Sport shirts; Sport stockings; Sports bra; Sports bras; Sports caps and hats; Sports jackets; Sports jerseys; Sports jerseys and breeches for sports; Sports pants; Sports shirts; Sports shirts with short sleeves; Sports shoes; Sports vests; Tennis shoes; Tops; Track and field shoes; Training shoes; Volleyball shoes; Warm up outfits; Waterproof jackets and pants; Women's clothing, namely, shirts, dresses, skirts, blouses; Women's hats and hoods; Women's shoes; Women's shoes, namely, foldable flats; Wooden shoes; Work shoes and boots; Wraps..

6. Upon information and belief, when on May 19, 2015 Registrant submitted the

declaration to the USPTO indicating that the mark was in use in commerce in connection with the goods now listed on the Registration, such information was false.

7. Upon information and belief, Registrant misrepresented the nature of its use in commerce of the mark ONEMIX at the time he submitted the declaration and continued to prosecute the trademark application that led to the registration that is the subject of this cancellation.

8. Upon information and belief, Registrant procured the aforesaid registration, Reg. No. 4,888,794 by false means and/or by knowingly and willfully making false and/or fraudulent declarations and representations aforesaid.

9. Upon information and belief, said false statements were made with the intent to induce the USPTO to grant said registration, and reasonably relying upon the truth of said false statements, the USPTO did, in fact, grant said registration to Registrant.

10. Upon information and belief, Registrant knew, at the time the declaration was filed, that it contained false statements.

11. Petitioner is using and has used the mark ONEMIX in connection with athletic shoes in the United States.

12. Petitioner has filed applications for trademark registration for the mark ONEMIX around the world.

13. Petitioner's ONEMIX goods are sold around the world.

14. Continued existence of Registration No. 4,888,794 creates a serious cloud on Petitioner's continued right to use its ONEMIX mark.

15. Continued existence of Registration No. 4,888,794 dilutes the capacity of Petitioner's mark to identify goods originating from Petitioner.

16. Continued existence of Registration No. 4,888,794 for the mark ONEMIX, will presumptively deprive Petitioner of the goodwill associated with its ONEMIX mark and cause irreparable harm, injury and damage to Petitioner.

Dated: New York NY  
September 29, 2016

Respectfully submitted,  
NATTER & NATTER

Attorneys for Petitioner  
501 Fifth Avenue  
New York NY 10017  
Tel: (212) 840-8300  
email: ben@natterip.com

By           /Ben Natter/            
Ben Natter

CERTIFICATE OF MAILING

It is hereby certified that on this 29<sup>th</sup> day of September, 2016, a true and correct copy of the within Petition for Cancellation is being mailed, first class, postage prepaid to the Registrant's correspondence address as follows:

Yuanda Chen  
735 W. Durate Road, Suite 208  
Arcadia, CA 91007

          /Ben Natter/



