

ESTTA Tracking number: **ESTTA774766**

Filing date: **10/05/2016**

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	Nicole L. Guest		
Entity	Individual	Citizenship	UNITED STATES
Address	3435 Ocean Blvd., # 107 Santa Monica, CA 90405 UNITED STATES		

Attorney information	Christian W. Liedtke acuminis pc 3420 Bristol St 6th Floor Costa Mesa, CA 92626 UNITED STATES cw.liedtke@acuminis.biz Phone:949-698-7840		
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### Registration Subject to Cancellation

Registration No	3892932	Registration date	12/21/2010
Registrant	Hustle And Grind Apparel 2172 Elysian Place Suite 2 Cincinnati, OH 45219 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 2008/08/01 First Use In Commerce: 2009/09/30  
All goods and services in the class are cancelled, namely: Ballet shoes; Ballet slippers; Footwear for women; Insoles for footwear

### Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition to Cancel_FINAL.pdf(94980 bytes ) EXHIBIT 1_combined.pdf(1118010 bytes ) EXHIBIT 2_combined.pdf(492861 bytes ) Exhibit 3_combined.pdf(1150689 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	/Christian W Liedtke/
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Name	Christian W. Liedtke
Date	10/05/2016

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

NICOLE L. GUEST DBA SASHAY

Petitioner,

v.

HUSTLE AND GRIND APPAREL AKA  
H.A.G. APPAREL LLC

Registrant.

Cancellation No. \_\_\_\_\_

**Registration No. 3,892,932**

Mark: MYSASHAY

**PETITION TO CANCEL**

Nicole L. Guest, an individual with an address at 3435 Ocean Blvd., # 107, Santa Monica, California, 90405 believes that she is or will be damaged by the above-identified registration, and petitions to cancel the same.

As grounds for this Petition to Cancel, Nicole L. Guest alleges the following upon actual knowledge with respect to herself and her own acts, and upon information and belief as to other matters:

**Claim for Relief**

1. On March 30, 2010, Respondent Hustle and Grind Apparel filed the following application for the mark MYSASHAY on the basis of alleged use in commerce:

Application Serial No. 85/002,481 for Ballet shoes; Ballet slippers; Footwear for women; Insoles for footwear in International Class 025. Said application was registered on December 21, 2010 under Registration No. 3,892,932 ("Respondent's Application").

2. Respondent has an office at 2172 Elysian Place, Suite 2 Cincinnati, Ohio 45219.

3. Respondent does not use the mark MYSASHAY for Ballet shoes; Ballet slippers; Footwear for women; Insoles for footwear. In fact, upon information and belief, Respondent does not use the mark at all.

4. Respondent is not entitled to federal registration of the alleged mark MYSASHAY in that on information and belief, Respondent has abandoned the registered mark. Therefore, Respondent's mark should be cancelled on this basis under Lanham Act Section 14(3), 15 U.S.C. § 1064(3).

5. The Specimen submitted in connection with Respondent's Application on August 10, 2010 indicates that Respondent operates the website [www.mysashay.com](http://www.mysashay.com). (See Exhibit 1).

6. Respondent has abandoned its website [www.mysashay.com](http://www.mysashay.com). As per the Internet Archive, the website [www.mysashay.com](http://www.mysashay.com) has not been in use since at least February 2011. In fact, this website is currently available for purchase on [godaddy.com](http://godaddy.com) and other registrars. (See Exhibit 2).

7. Moreover, Respondent maintains a Facebook page in connection with MYSASHAY that allows Respondent to post comments and interact with other users. Respondent first posted on its Facebook page in June 2010, and continued to post on its Facebook page regularly up until November 2010. Respondent has not posted on its Facebook Page since November 20, 2010, nearly six years ago. (See Exhibit 3).

7. Upon information and belief Respondent has abandoned its activities entirely. Since, upon information and belief, Respondent has not used the mark

MYSASHAY at all in over half a decade, it is presumed that Respondent does not intend to resume use of the mark, Lanham Act § 45, 15 U.S.C. § 1127.

8. On May 3, 2016 Petitioner filed U.S. Trademark Application No. 87/023,153 for the mark SASHAY for Belts; Body suits for women; Bottoms; Dresses for women; Eyeshades; Fashion hats; Gloves as clothing; Head wraps; Headwear for women; Hooded sweatshirts for women; Hoods; Jackets; Loungewear; Mufflers; Nightwear; Shirts for women; Shorts for women; Shoulder wraps; Sweaters for women; Sweatpants for women; Sweatshirts for women; Swimwear; T-shirts for women; Ties; Tops; Trousers for women; Women's clothing, namely, shirts, dresses, skirts, and blouses.

9. Petitioner's Application was initially rejected under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d) due to an alleged likelihood of confusion with U.S. Registration No. 3,892,932.

10. If Respondent is permitted to retain the registration of MYSASHAY that Petitioner seeks to cancel herein, Petitioner will be damaged by the registration in that the registration could be argued to impair her own legitimate use of the mark.

11. Respondent should not be entitled to continue registration of its alleged mark MYSASHAY mark because Respondent has abandoned the mark.

WHEREFORE, Petitioner requests that Registration No. 3,892,932 for MYSASHAY owned by Respondent be cancelled and that this Petition to Cancel be sustained in favor of Petitioner.

Dated: October 5, 2016

Respectfully submitted,

/s/ Christian W. Liedtke

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Christian W. Liedtke  
cw.liedtke@acuminis.biz  
Nicole A. Passman  
3420 Bristol St, 6<sup>th</sup> Floor  
Costa Mesa, CA 92626  
Telephone: 949-698-7840

*Counsel for Petitioner Nicole L. Guest*

### **Certificate of Service**

I hereby certify that I served a copy of the foregoing **PETITION TO CANCEL** upon the owner of record for the mark "MYSASHAY" by depositing one copy thereof in the United States Mail, First-Class postage prepaid, on October 5, 2016 addressed as follows:

Hustle and Grind Apparel  
2172 Elysian Place, Suite 2  
Cincinnati, Ohio, 45219

/s/ Nicole A. Passman

---

Nicole A. Passman

# EXHIBIT 1



mySashay  
comfortable • stylish • convenient  
[www.mysashay.com](http://www.mysashay.com)

# EXHIBIT 2



Your use of the Wayback Machine is subject to the Internet Archive's [Terms of Use](#).



http://mysashay.com/

Go

JAN

[6 captures](#)

9 Feb 11 - 5 Mar 16

2010

Proceed to Site



Welcome to: **mysashay.com**  
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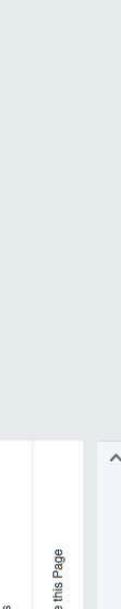
# EXHIBIT 3



**MySashay**  
@MySashay

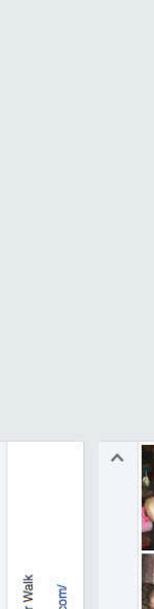
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**MySashay** November 20, 2010 ·   
It's the perfect gift idea!!!!



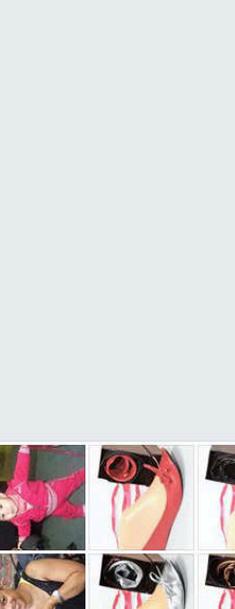
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**MySashay** November 15, 2010 ·   
helps another QUEEN because she cannot and must not stop!



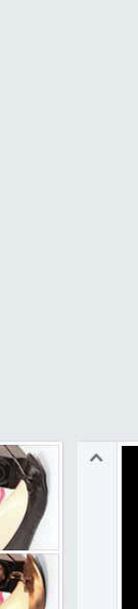
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**MySashay** November 6, 2012 at 5:50pm · Like  
Ariana Donaldson thank you so much for the shoes I love them and the packaging is genius!!!



Like Comment Share  
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**MySashay** with Billie Marie.  
November 15, 2010 · 



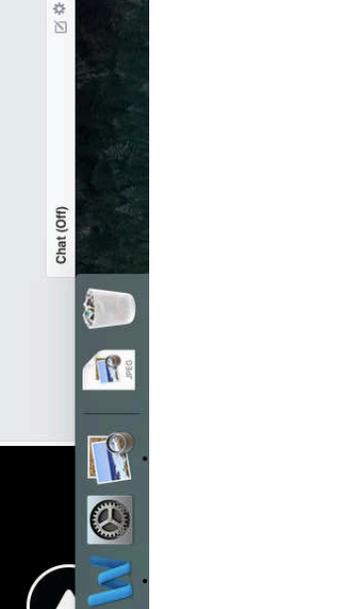
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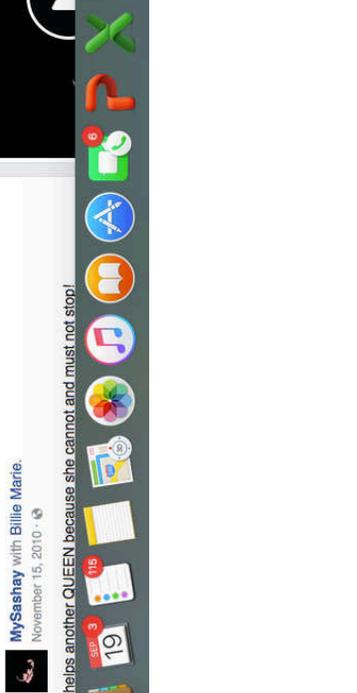
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About MySashay

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Page Info

PAGE INFO

Short Description	MySashay.....It's Your Walk
Company Overview	MySashay is a product of H.A.G. APPAREL Co.
Mission	Our mission is simple....to provide women with a comfortable, classy, convenient transitional shoe. We know a woman's work ... <a href="#">See More</a>
Products	MySashays and more surprises to come!
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