

ESTTA Tracking number: **ESTTA776767**

Filing date: **10/14/2016**

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

Proceeding	92064598
Party	Plaintiff Gary Michael Bell
Correspondence Address	FELICIA J BOYD BARNES & THORNBURG LLP 225 SOUTH 6TH ST , STE 2800 MINNEAPOLIS, MN 55402-4662 UNITED STATES trademarks-mi@btlaw.com, fboyd@btlaw.com, heather.johnson@btlaw.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Felicia J. Boyd
Filer's e-mail	trademarks-mi@btlaw.com, fboyd@btlaw.com, heather.johnson@btlaw.com
Signature	/Felicia J. Boyd-kt/
Date	10/14/2016
Attachments	MOTION TO AMEND Petition to Cancel - PLAYERS PACK 92064598.pdf(20372 bytes) AMENDED PETITION TO CANCEL - PLAYERS PACK - 92064598.pdf(685064 bytes)

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

Mark: PLAYERS PACK
Registration No.: 3,931,328

GARY MICHAEL BELL,
Petitioner,

v.

VACUMI, INC.,
Respondent.

Cancellation No.: 92064598

MOTION TO AMEND PETITION FOR CANCELLATION

Petitioner Gary Michael Bell (“Petitioner”) hereby respectfully requests leave to amend its Petition for Cancellation in accordance with Fed. R. Civ. P. 15(a), 37 C.F.R. § 2.115, and TBMP §§ 315 and 507. The proposed Amended Petition for Cancellation is included with this Motion. The purpose of the amendment is to include the exhibits to the pleading omitted during filing of the original petition. Otherwise, the Amended Petition for Cancellation is the same as the original Petition for Cancellation.

Accordingly, Opposer requests that its motion for leave to amend its Petition for Cancellation be GRANTED.

October 14, 2016

Respectfully submitted,

By: s/Felicia J. Boyd/

Felicia J. Boyd

BARNES & THORNBURG LLP

225 South Sixth Street, Suite 2800

Minneapolis, MN 55402-4662

Telephone: 612-367-8729

E-mail: fboyd@btlaw.com

ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **MOTION TO AMEND PETITION FOR CANCELLATION** has been served October 14, 2016, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to the Registrant:

Vacumi, Inc.
3017 Trieste Way
El Dorado Hills, CALIFORNIA 95762
UNITED STATES

s/Felicia J. Boyd/
Felicia J. Boyd

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

Mark: PLAYERS PACK
Registration No.: 3,931,328

GARY MICHAEL BELL,
Petitioner,

v.

VACUMI, INC.,
Respondent.

Cancellation No.: 92064598

AMENDED PETITION FOR CANCELLATION

Gary Michael Bell believes he is now and will in the future continue to be damaged by Vacumi, Inc.'s registration of the trademark PLAYERS PACK, as shown in Registration No. 3,931,328, registered on March 15, 2011 (hereinafter the "Registered Mark"), and hereby petitions to cancel said registration.

The grounds for this petition include the following:

1. Gary Michael Bell ("Petitioner"), an individual of the United States, provides is in the business of making and selling a variety of bag products including the products which are the subject of the application referenced herein.

2. Petitioner is the owner of U.S. Serial No. 86/861,474 for PLAYERSPAK claiming "golf bags and pouches for golf equipment and accessories; golf kits consisting of golf bags or pouches, golf balls, golf tees, golf ball markers, divot repair tools, golf gloves, lip balm, sun block, or snack foods" in Class 28.

3. Vacumi, Inc. (“Respondent”) is the owner of Registration No. 3,931,328 for the mark PLAYERS PACK for “Backpacks” in Class 18. A printout from TSDR, evidencing the current status and ownership of the Registered Mark, is attached as Exhibit A.

4. Respondent’s claimed date of first use of its mark in connection with Respondent’s services is July 1, 2009, and the application filing date is September 4, 2007.

5. The U.S. Patent and Trademark Office cited Respondent’s Registration No. 3,931,328 for PLAYERS PACK as a potential bar to the registration of Petitioner’s pending application Serial No. 86/861,474 to register PLAYERSPAK.

6. Upon information and belief, Respondent has discontinued use of the Registered Mark with intent not to resume such use and Respondent has abandoned the Registered Mark.

7. Upon information and belief, Respondent’s legal entity has been dissolved and/or is not in good standing with its state of incorporation. A printout from the California Secretary of State evidencing the dissolved status of Respondent’s business is attached as Exhibit B.

8. Upon information and belief, Respondent has not used the Registered Mark in commerce for at least the last three years.

9. Upon information and belief, cancellation of Respondent’s Mark is proper and would avoid a finding of a likelihood of confusion based upon Respondent’s Registration No. 3,931,328 for PLAYERS PACK.

WHEREFORE, Gary Michael Bell prays that said registration be cancelled.

October 14, 2016

Respectfully submitted,

By: s/Felicia J. Boyd/

Felicia J. Boyd

BARNES & THORNBURG LLP

225 South Sixth Street, Suite 2800

Minneapolis, MN 55402-4662

Telephone: 612-367-8729

E-mail: fboyd@btlaw.com

ATTORNEY FOR PETITIONER

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Vacumi, Inc.
3017 Trieste Way
El Dorado Hills, CALIFORNIA 95762
UNITED STATES

s/Felicia J. Boyd/
Felicia J. Boyd

EXHIBIT A

Generated on: This page was generated by TSDR on 2016-10-07 13:09:49 EDT

Mark: PLAYERS PACK

PLAYERS PACK

US Serial Number: 77270861

Application Filing Date: Sep. 04, 2007

US Registration Number: 3931328

Registration Date: Mar. 15, 2011

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Mar. 15, 2011

Publication Date: Mar. 04, 2008

Notice of Allowance Date: May 27, 2008

Mark Information

Mark Literal Elements: PLAYERS PACK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "PACK"

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Backpacks

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2009

Use in Commerce: Jul. 01, 2009

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Vacumi, Inc.

Owner Address: 3017 Trieste Way
El Dorado Hills, CALIFORNIA 95762
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron K. McClellan

Attorney Primary Email Address: amcclellan@mpbf.com

Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: AARON K. MCCLELLAN
88 KEARNY ST FL 10
SAN FRANCISCO, CALIFORNIA 94108-5524
UNITED STATES

Correspondent e-mail: amcclellan@mpbf.com

Correspondent e-mail Authorized: No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 15, 2011	REGISTERED-PRINCIPAL REGISTER	
Feb. 10, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Feb. 09, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	68658
Feb. 09, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Feb. 08, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	68658
Feb. 08, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	68658
Jan. 13, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	68658
Jan. 13, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	68658
Jan. 12, 2011	ASSIGNED TO LIE	68658
Dec. 27, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 25, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Jun. 25, 2010	NON-FINAL ACTION E-MAILED	
Jun. 25, 2010	SU - NON-FINAL ACTION - WRITTEN	76079
Jun. 03, 2010	STATEMENT OF USE PROCESSING COMPLETE	65362
May 27, 2010	USE AMENDMENT FILED	65362
May 27, 2010	TEAS STATEMENT OF USE RECEIVED	
Jan. 13, 2010	EXTENSION 3 GRANTED	65362
Nov. 27, 2009	EXTENSION 3 FILED	65362
Jan. 11, 2010	EXTENSION RECEIVED WITH TEAS PETITION	
Jan. 11, 2010	PETITION TO REVIVE-GRANTED	88889
Jan. 11, 2010	TEAS PETITION TO REVIVE RECEIVED	
Dec. 28, 2009	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Dec. 28, 2009	ABANDONMENT - NO USE STATEMENT FILED	99999
Jun. 01, 2009	EXTENSION 2 GRANTED	65362
May 27, 2009	EXTENSION 2 FILED	65362
May 28, 2009	EXTENSION RECEIVED WITH TEAS PETITION	
May 28, 2009	PETITION TO REVIVE-GRANTED	88889
May 28, 2009	TEAS PETITION TO REVIVE RECEIVED	
Jan. 30, 2009	EXTENSION 1 GRANTED	65362
Nov. 27, 2008	EXTENSION 1 FILED	65362
Jan. 30, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	65362
Jan. 06, 2009	EXTENSION RECEIVED WITH TEAS PETITION	
Jan. 06, 2009	PETITION TO REVIVE-GRANTED	88889

Jan. 06, 2009	TEAS PETITION TO REVIVE RECEIVED	
Dec. 29, 2008	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Dec. 29, 2008	ABANDONMENT - NO USE STATEMENT FILED	99999
May 27, 2008	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 04, 2008	PUBLISHED FOR OPPOSITION	
Feb. 13, 2008	NOTICE OF PUBLICATION	
Jan. 29, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	76243
Jan. 29, 2008	ASSIGNED TO LIE	76243
Dec. 17, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 10, 2007	ASSIGNED TO EXAMINER	76079
Sep. 08, 2007	NOTICE OF DESIGN SEARCH CODE MAILED	
Sep. 07, 2007	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 09, 2011

EXHIBIT B

http://kepler.sos.ca.gov/

Trademark Status & ... USPTO TSDR Case Vi... 3017 Trieste Way - G... Vacumi Inc., 3017 Tri... Business Search - ... Status Search SN 772... USPTO TSDR Case Vi... playerspack.com

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CPI FIP FileSurf CSC TM Free Dictionary SAEGIS TEAS TSDR TM - USPTO TMNG IDML Outlook Web App BT FileSurf 12.6.2.2 - Prod...

privacy *All people Liberty Speak without discrimination.* *Conscience*

California Secretary of State Alex Padilla

Secretary of State Main Website **Business Programs** Notary & Authentications Elections Campaign & Lobbying State Archives Registries

Business Entities (BE)

Online Services

- E-File Statements of Information for Corporations
- Business Search
- Processing Times
- Disclosure Search

Main Page

Service Options

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Forms, Samples & Fees

Statements of Information (annual/biennial reports)

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Resources

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- Tax Information
- Starting A Business

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- Business Identity Theft
- Misleading Business Solicitations

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Tuesday, October 04, 2016. Please refer to **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	VACUMI, INC.
Entity Number:	C2938817
Date Filed:	12/19/2006
Status:	DISSOLVED
Jurisdiction:	CALIFORNIA
Entity Address:	3941 PARK DR. STE. 20-291
Entity City, State, Zip:	EL DORADO HILLS CA 95762
Agent for Service of Process:	AARON MCCLELLAN
Agent Address:	88 KEARNY STREET, 10TH FLOOR
Agent City, State, Zip:	SAN FRANCISCO CA 94108

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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