

ESTTA Tracking number: **ESTTA951911**

Filing date: **02/04/2019**

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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	JB INTERNATIONAL HOLDINGS LIMITED		
Entity	Limited Liability Company	Citizenship	Hong Kong
Address	6th Floor, St. John's Building 33 Garden Road Central Hong Kong, 0 HONG KONG		
Attorney information	MATTHEW D. ASBELL Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018 UNITED STATES MAsbell@ladas.com, YAbutouq@ladas.com, MKirkorian@ladas.com, TJones@ladas.com 2127081800		

Registration Subject to Cancellation

Registration No.	4724613	Registration date	04/21/2015
Registrant	Gross, Lisa S 21125 Mill Ridge Drive Santa Clarita, CA 91350 UNITED STATES Email: lisa@girlbydesign.com		

Goods/Services Subject to Cancellation

Class 025. First Use: 2014/01/24 First Use In Commerce: 2014/01/24 All goods and services in the class are subject to cancellation, namely: Hats; Sweatshirts; T-shirts
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Grounds for Cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Abandonment	Trademark Act Section 14(3)
Other	No bona fide intent to use the mark in connection with the identified goods/services as of the filing date of the application under Trademark Act Section 1(b).

Attachments	Petition to Cancel U.S. Reg. No. 4724613 for GIRL BY DESIGN.pdf(311335 bytes)
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Signature	/MA/
Name	MATTHEW D. ASBELL
Date	02/04/2019

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

JB INTERNATIONAL HOLDINGS LIMITED

Petitioner,

v.

LISA S. GROSS

Respondent.

Cancellation No. _____

Registration No. 4,724,613

Mark: GIRL BY DESIGN

L&P Ref.: C118706399

PETITION FOR CANCELLATION

JB International Holdings Limited (“Petitioner”) believes that it will be materially harmed and damaged by U.S. Trademark Registration No. 4,724,613 of April 21, 2015 for the mark GIRL BY DESIGN for: “Hats; Sweatshirts; T-shirts” in International Class 25. Petitioner accordingly petitions for cancellation of same.

Petitioner alleges as follows:

1. Petitioner is a limited liability company organized and existing under the laws of Hong Kong, having an address at 6th Floor St. John’s Building, 33 Garden Road, Central, Hong Kong.
2. Petitioner is the owner of the trademark FEMME BY DESIGN and has applied to register the same in the United States under U.S. Application No. 87/870,309

(“Petitioner’s Application”) covering the following goods in Class 25 (hereinafter referred to as “Petitioner’s Goods”):

“Women's clothing, namely, dresses, shirts, pants, skirts, shorts, halters, suits, blazers, dusters, jumpers, jackets, vests, tops, namely, hooded tops, sweat tops, tube tops, knitted and woven tops, T-shirts and robes, namely, bath robes, beach robes, and women's activewear, namely, jeans, jogging suits, sweat suits, bathing suits and outerwear, namely, coats and skiwear.”

3. Upon information and belief, Lisa S. Gross (“Respondent”) is an individual citizen of the United States of America, having an address at 21125 Mill Ridge Drive, Santa Clarita, California, United States of America, 91350.
4. Respondent is owner of record for U.S. Trademark Registration No. 4,724,613 (“Respondent’s Registration”), for the mark GIRL BY DESIGN (“Respondent’s Mark”), which was registered on the Principal Register on April 21, 2015, disclaims the term “GIRL” and covers the following goods in Class 25 (hereinafter referred to as “Respondent’s Goods”):

“Hats; Sweatshirts; T-shirts.”

5. On or about August 6, 2018, the USPTO issued a non-final Office Action refusing Petitioner's Application based on the grounds of Trademark Act § 2(d) likelihood of confusion with Respondent’s Registration.
6. Petitioner will be harmed by the continued registration of Respondent's Registration, at least because the USPTO Examining Attorney issued a refusal

against Petitioner's Application citing Respondent's Registration as a bar to registration.

7. The continued existence of Respondent's Registration is likely to cause harm and damage to Petitioner in that it falsely represents to the public that the Respondent has presumptively exclusive rights in and to the mark in Respondent's Registration in connection with Respondent's Goods in U.S. commerce and is an impediment to the safe use and registration of Petitioner's Mark in connection with Petitioner's Goods.

FIRST CLAIM: ABANDONMENT

8. Upon information and belief, Respondent has ceased use in U.S. commerce of Respondent's Mark in connection with Respondent's Goods, and Respondent has no intention to resume said use.
9. Upon information and belief, Respondent has not used Respondent's Mark in U.S. commerce in connection with Respondent's Goods for at least three (3) consecutive years.
10. Accordingly, Respondent has abandoned its rights to Respondent's Mark.

SECOND CLAIM: NO BONA FIDE INTENT TO USE

11. Petitioner repeats and realleges the allegations in paragraphs 1 -10 above, as if fully set forth herein.
12. Upon information and belief, there is no documentary evidence of Respondent's intent to use Respondent's Mark in connection with Respondent's Goods at the time

that Respondent filed its application for Respondent's Registration on September 20, 2013 on an intent-to-use basis.

13. Upon information and belief, Respondent did not have a bona fide intent to use Respondent's Mark in connection with Respondent's Goods at the time that Respondent filed its application for Respondent's Registration on September 20, 2013 on an intent-to-use basis.

THIRD CLAIM: NO BONA FIDE USE

14. Petitioner repeats and realleges the allegations in paragraphs 1 -13 above, as if fully set forth herein.
15. Upon information and belief, Respondent's Mark was not in use in U.S. commerce in connection with at least "hats" and "sweatshirts" at the time the declaration was executed or at any time prior to the extended deadline to file a Statement of Use of April 29, 2015. No further extensions of time to file a Statement of Use were requested by Respondent.
16. Upon information and belief, Respondent's Mark is not currently in use in U.S. commerce in connection with at least "hats" and "sweatshirts".
17. Upon information and belief, Respondent's Mark was never in use in U.S. Commerce in connection with at least "hats" and "sweatshirts".

WHEREFORE, Petitioner requests that (a) this Petition for Cancellation of GIRL BY DESIGN Registration No. 4,724,613 be granted (b) Registration No. 4,724,613 be cancelled, and (c) Petitioner be granted such other relief as may be warranted.

New York, New York

Respectfully submitted,



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