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Exhibits

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

In the Matter of U.S. Trademark Registration No. 2,034,256  
For the Mark PRESTIGE  
Registered on January 28, 1997

LDR INDUSTRIES, INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 FRANKLIN BRASS )  
 MANUFACTURING CO. )  
 )  
 Registrant. )

01-22-2002  
U.S. Patent & TMOfr/TM Mail Rcpt Dt. #61

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

01 22 2002

**BOX TTAB FEE**  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**PETITION TO CANCEL**

LDR Industries, Inc. ("Petitioner"), an Illinois corporation having a principal place of business at 600 North Kilbourn, Chicago, Illinois 60624, believes that it will be damaged by the above-identified registration and hereby petitions for cancellation of same under the provisions of 15 U.S.C. § 1064. Upon information and belief, the owner of the registration is Franklin Brass Manufacturing Co., 19914 Via Barron Rancho, Dominguez, California 90220. As grounds for cancellation, Petitioner asserts as follows:

1. For over 50 years, Petitioner has sold a variety of bathroom accessories and plumbing products to customers throughout the United States.

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600.00 DP

2. On March 26, 1993, Petitioner first used the mark PRESTIGE on soap holders and dishes and replacement acrylic liners and trays therefore; mounting brackets; towel bars and rings; toothbrush and tumbler holders, toilet paper and paper towel holders and replacement rollers; metal hooks; switch plates; outlet plates; and combination switch and outlet plates.

3. On August 23, 1993, Petitioner first use the mark PRESTIGE in interstate commerce on soap holders and dishes and replacement acrylic liners and trays therefore; mounting brackets; towel bars and rings; toothbrush and tumbler holders, toilet paper and paper towel holders and replacement rollers; metal hooks; switch plates; outlet plates; and combination switch and outlet plates.

4. From August 23, 1993 to the present, Petitioner has continuously used the mark PRESTIGE in interstate commerce on a nationwide basis on soap holders and dishes; towel bars and rings; toothbrush and tumbler holders; toilet paper and paper towel holders and replacement rollers; metal hooks; and switch plates. Attached hereto as Exhibit 1 is a copy of Petitioner's mark as currently used with a toilet paper holder.

5. As a result of Petitioner's use and promotion of its PRESTIGE trademark for the above goods in interstate commerce since 1993, the PRESTIGE mark has acquired substantial goodwill and is recognized in the marketplace as indicating Petitioner as the source of the goods sold under the mark.

6. Petitioner's goods bearing the PRESTIGE mark have been extensively and continuously offered in commerce through national retail stores and their distributors, and are advertised in catalogs, sales flyer sheets, promotional giveaways and on the internet.

7. On December 12, 1994, Registrant filed an intent-to-use trademark application for the mark PRESTIGE (hereinafter "Mark") in connection with metal robe hooks in International

Class 6 and bathroom accessories, namely, soap dishes, toothbrush and tumbler holders, toilet paper holders, towel bars and towel rings in International Class 21. The application was assigned Serial No. 74/609,485.

8. Upon information and belief, on October 15, 1996, Registrant filed a Statement of Use alleging that the Mark was first used and first used in interstate commerce in October 1995 in connection with metal robe hooks and bathroom accessories, namely, soap dishes, toothbrush and tumbler holders, toilet paper holders, towel bars and towel rings.

9. On January 28, 1997, the U.S. Patent and Trademark Office issued U.S. Registration No. 2,034,256 to Registrant for the Mark in connection with the above listed goods. A copy of the registration is attached hereto as Exhibit 2.

10. Upon information and belief, Registrant's goods bearing the PRESTIGE mark are offered in commerce through national retail stores and their distributors and are advertised in promotional brochures and on the internet.

11. Registrant's Mark is identical to Petitioner's PRESTIGE mark and is used on identical goods that are offered and sold in the same or similar channels of trade as are Petitioner's goods.

12. Registrant's Mark so resembles Petitioner's mark as to be likely, when used on or in connection with Registrant's goods, to cause confusion, or to cause mistake, or to deceive, all to Petitioner's damage.

13. Petitioner would be further damaged if Registrant's mark were to become incontestable.

**WHEREFORE**, Petitioner prays that the registration be canceled.

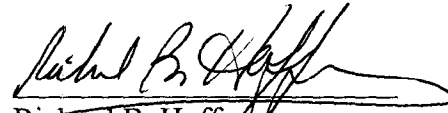
The filing fee for this Petition in the amount of \$600 is enclosed. The Commissioner is authorized to charge any deficiency in the amount enclosed to Deposit Account No. 13-2855.

This Petition is being filed in duplicate pursuant to 37 C.F.R. § 2.112(a).

Respectfully submitted,

Dated: January 22, 2002

By:



Richard B. Hoffman

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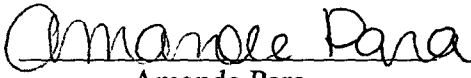
**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as "EXPRESS MAIL" in an envelope addressed to BOX TTAB, Commissioner of Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513 on January 22, 2002.

Express Mail No: EK 657 816 509 US

Date of Deposit: January 22, 2002

Dated: 1/22, 2002

  
Amanda Para