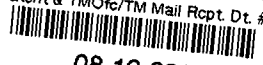


TTAB

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

In the Matter of Registration No. 2,222,067
Date of Issue: February 2, 1999

U.S. Patent & TMO/TM Mail Rcpt. Dt. #57



08-19-2002

TOMA'S L.L.C.,

Petitioner,

Cancellation No.

v.

HARRIET CARTER GIFTS, INC.,

Registrant.

TRADEMARK TRIAL AND
APPEAL BOARD
02 AUG 30 AM 12:14

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

PETITION FOR CANCELLATION

Toma's L.L.C., an Oklahoma limited liability corporation with its principal place of business at 6516 North Ollie, Suite G, Oklahoma City, Oklahoma 73116, believes that it is or will be damaged by Registration No. 2222067 and hereby petitions to cancel the same. As ground therefore, it is alleged that:

08/28/2002 GTHDMAS2 00000006 041700 2222067

01 FC:377 300.00 CH

CERTIFICATION UNDER 37 CFR 1.10

EXPRESS MAIL NO. EV106032551US
DATE OF DEPOSIT: August 19, 2002

I hereby certify that this Petition for Cancellation is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

Joseph P. Titterington
Name of Depositor

Signature of Depositor

August 19, 2002
Date of Signature

1. Registrant owns Registration No. 2222067 for the mark TOMA'S TAN PERFECT in connection with the sale of exfoliating lotions; instant tanning lotions; and tan enhancing moisturizing lotions in International Class 3, claiming a date of first use of January 18, 1998.

2. Since long before Registrant's first use of the mark TOMA'S TAN PERFECT Petitioner has been the owner of the mark TOMAS which it has used throughout the United States in connection with the sale of instant tanning lotions and tan enhancing moisturizing lotions.

3. Pursuant to a license agreement entered into between Petitioner and Registrant, Petitioner licensed to Registrant the right to the use of the mark TOMA'S in connection with certain goods marketed by Registrant. Said license has been terminated and, pursuant to the terms of the license agreement, Registrant agreed to cease use of the mark TOMAS.

4. Despite its contractual obligation and in flagrant disregard of said obligation, Registrant obtained registration for the mark TOMA'S TAN PERFECT by falsely representing that it owned the mark and was entitled to its exclusive use.

5. Registrant has displayed the mark covered by its registration in connection with certain exfoliating lotions, instant tanning lotions and tan enhancing moisturizing lotions which it sells throughout the United States.

6. Registrant's mark, TOMA'S TAN PERFECT, disparages and/or falsely suggests a connection with Petitioner.

7. Registrant's mark, TOMA'S TAN PERFECT, is confusingly similar to

Class 3.

A duplicate copy of this Petition for Cancellation and the fee required in accordance with Section 2.6(a)(16) are enclosed herewith

Respectfully submitted,



Joseph P. Titterington
Robert Trent Pipes
DUNLAP, CODDING & ROGERS, P.C.
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08-19-2002

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ATTORNEYS AT LAW

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January 24, 2002

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

TRADEMARK

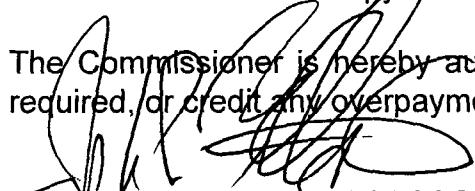
Re: Petition for Cancellation of Reg. No. 2,222,067
Mark: TOMA'S TAN PERFECT
Our Docket No. 7864.007

Sir:

Transmitted herewith is a Petition for Cancellation of Registration to be filed in connection with the above-referenced registration and a pre-addressed postal card.

Please charge Deposit Account No. 04-1700 in the amount of **\$300.00** to cover the filing fee in one class. One copy of this transmittal letter is attached.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 04-1700.



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Attorney for Applicant

APPROVED
for
PTO DEPOSIT ACCOUNT CHARGE
ACCOUNT #04-1700

DUNLAP, CODDING & ROGERS, P.C.

CERTIFICATION UNDER 37 CFR 1.10

EXPRESS MAIL NO. EV106032551US

DATE OF DEPOSIT: August 19, 2002

I hereby certify that Petitioner's Petition for Cancellation is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

Joseph P. Titterington
Name of Depositor

Signature of Depositor

August 19, 2002
Date of Signature