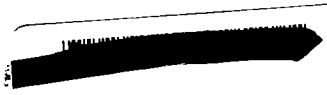


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

_____))
UNITED VAN LINES, LLC))
))
Petitioner,))
))
v.))
))
UNITED SHIPPING ASSOCIATES, INC.))
))
))
Registrant.))
_____))


11-26-2003
U.S. Patent & TMO/tm Mail Ropt Dt. #22

Cancellation No.: _____
Directed to: Registration No. 2,206,799
Date of Issue: December 1, 1998
Mark: UNITED SHIPPING
Class: 39

PETITION FOR CANCELLATION

Petitioner, United Van Lines, LLC, pursuant to 15 U.S.C. §§1064 and 1068, and 37 CFR §2.112, petitions to cancel U.S. Registration No. 2,206,799 owned by Respondent, United Shipping Associates, Inc. In support of the Petition to Cancel, Petitioner hereby states as follows:

PARTIES

1. United Van Lines, LLC is a limited liability corporation organized and existing under the laws of Missouri, and is located and doing business at One Premier Drive, Fenton, MO 63026.
2. On information and belief, Respondent is a corporation of the state of Colorado and is located at 7000 Broadway, #405, Denver, Colorado 80221-2926.
3. On information and belief, Respondent is the current owner of U.S. Registration No. 2,206,799, registered December 1, 1998 for the mark UNITED SHIPPING for interstate and international freight ship transport, freight forwarding, and custom freight brokerage services

("the Registration")

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COUNT I
(Likelihood of Confusion)

4. Petitioner re-alleges and incorporates by reference the allegations of paragraphs 1 through 3 as if fully set forth herein.

5. Petitioner adopted and has continuously used in interstate commerce since at least as early as 1957 the service mark UNITED in connection with transporting, moving, trucking, hauling and storing household goods and other types of items, and related transportation information services. Petitioner's marks consisting solely or in part of the formative UNITED ("the United Marks") are shown in the following registrations:

Mark	Registration Number	First Use	Goods/Services
UNITED	1,064,658	May 12, 1976	Moving, trucking, hauling and storing household goods and special shipments which are of high value, fragile, or both.
UNITED UNITED UNITED	1,151,934	May 12, 1976	Moving, trucking, hauling and storing household goods and special shipments which are of high value, fragile, or both.
UNITED'S STERLING SYSTEM	1,529,471	December 10, 1987	Computers and computer programs for use by commercial movers in creating an on-sight (sic.) estimated cost of moving for others.
UNITED	1,792,966	May 12, 1976	Transporting, moving, trucking, hauling and storing household goods and other special commodities, and related transportation information services.
UNITED	2,624,746	September 24, 2002	Transportation of goods by truck and storage of goods

These registrations are valid and in good standing, and the marks shown in Reg. Nos. 1,064,658; 1,151,934; 1,529,471; and 1,792,966 are incontestable.

6. Petitioner has promoted and sold the above-referenced transportation services in interstate and intrastate commerce under its United Marks since long prior to the date of first use shown in the Registration (April 21, 1997).

7. As a result of the use, promotion, and advertising of Petitioner's United Marks, these marks and related marks have become well known to the trade and to the public, and have accordingly acquired significant goodwill. Petitioner's United Marks identify and distinguish Petitioner's services from the services of others, and identify the source and origin thereof to both the trade and the public.

8. Petitioner has expended considerable effort and expense in promoting its United Marks and the services sold under the its United Marks, with the result that the purchasing public has come to know, rely upon, and recognize the services of Petitioner by its United Marks. Petitioner has an exceedingly valuable goodwill established in its United Marks.

9. Prior to Respondent's adoption of its mark, Petitioner's United Marks have been used and promoted in such a way as to create a public perception of the United Marks as a family characteristic and as an indication of source, which characteristic is distinctive. Petitioner's United Marks continue to be used and promoted in such a way. Thus, Petitioner's United Marks constitute a family of marks, with Respondent's mark appearing to be a member thereof.

10. Respondent's mark as shown in the Registration so resembles Petitioner's United Marks previously and currently used in the United States by Petitioner and not abandoned, as to be likely, when applied to Respondent's services, to cause confusion or to cause mistake or to deceive.

11. Use by Respondent of the mark shown in the Registration is likely to cause confusion in the minds of the trade and of the public. Among other things, it is likely to cause members of the public to believe that Respondent's services emanate from, or are licensed, sponsored or otherwise authorized by, Petitioner, whereas in fact they are not.

12. Petitioner is likely to be damaged by the continued registration in that Petitioner has a valid legal right to use Petitioner's United Marks for its services and the prima facie

evidentiary effect of the Registration tends to impair Petitioner's right to fairly use the mark shown in the Registration and/or a similar mark thereto in the manner registered as a trademark by Respondent, all to the great injury of Petitioner.

13. Petitioner is likely to be damaged by the continued registration in that a cloud will be placed on Petitioner's title in and to its family of United Marks, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its services, all to the great injury of Petitioner.

14. Petitioner will be injured and damaged by the continued registration of Respondent's mark because such mark, when applied to the goods of Respondent:

- a) is likely to cause confusion, or to cause mistake, or to deceive;
- b) falsely suggests a connection with Petitioner; and
- c) will damage Petitioner's valuable goodwill in its United Marks.

15. By reason of the foregoing, Respondent is not entitled to the Registration.

COUNT II
(Dilution)

16. Petitioner re-alleges and incorporates by reference the allegations of paragraphs 1 through 15 as if fully set forth herein.

17. Petitioner's United Marks have become famous as that term is defined 15 U.S.C. §1125(c).

18. Petitioner's family of United Marks became famous long prior to any alleged first use by Respondent of the mark shown in the Registration.

19. Petitioner is likely to be damaged by the continued registration in that the registration and use by Respondent of the mark shown in the Registration will result in the dilution of the distinctive quality of Petitioner's family of famous United Marks.


20. By reason of the foregoing, Respondent is not entitled to the Registration.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Petition for Cancellation be granted and the Registration be canceled.

A check in the amount of \$300.00 is enclosed herewith. This is believed to be the correct fee, but if it is not, please be hereby authorized to debit our Account 20-0823 or credit any excess thereto.

Respectfully submitted,
THOMPSON COBURN LLP

By 

Mark Sableman
Matthew J. Himich
One US Bank Plaza
St. Louis, Missouri 63101
(314) 552-6000
FAX (314) 552-7000

Attorneys for Petitioner
UNITED VAN LINES, LLC

CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. § 1.10

I hereby certify that this correspondence and the documents referred to as enclosed therein are being deposited with the United States Postal Service on NOVEMBER 26, 2003 in an envelope as 'Express Mail Post Office To Addressee' Mailing Label Number EV 323574615 US addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.



Matthew J. Himich

TTAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Cancellation No.: _____

Directed to: Registration No. 2,206,799
Date of Issue: December 1, 1998
Mark: UNITED SHIPPING
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LETTER

11-26-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Dear Sir/Madam


Please find for filing in the above-referenced matter:

1. Petition for Cancellation (duplicate);
2. Duplicate copy of this letter;
3. Our check in the amount of \$300.00. If this incorrect and an additional fee is

necessary, the Director of Trademarks is hereby authorized to debit our Account 20-0823 or credit any excess thereto.

Please file said Petition for Cancellation.

Respectfully,
Thompson Coburn LLP

By: 


Matthew J. Himich, Reg. No. 47,650
One US Bank Plaza
St. Louis, Missouri 63101
(314) 552-6000 (Telephone)
(314) 552-7000 (Facsimile)

CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. § 1.10

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Respectfully,
Thompson Coburn LLP

By:


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