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

The Window Factory, Inc.

Petitioner,

v.

Anlin Industries, Inc.,

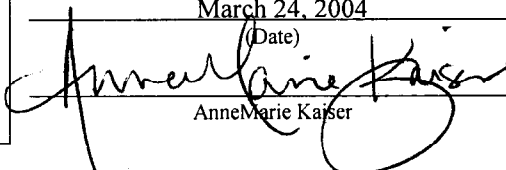
Respondent.

Opposition No.

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on

March 24, 2004

(Date)



AnneMarie Kaiser

PETITION FOR CANCELLATION

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514



ATT: BOX TTAB FEE

03-29-2004

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

Dear Sir:

Petitioner, The Window Factory, Inc., a California corporation located and doing business at 9323 Activity Road, San Diego, California, 92126, believes that it is or will be damaged by Registration No. 2,795,295 and hereby petitions to cancel same.

Description of Respondent's Registration:

Respondent's application filed on September 27, 2000 for the mark MONTEREY, registered on the Principal Register as Registration No. 2,795,295 in International Class 019 for "vinyl windows, namely windows with frames made of vinyl," claiming first use of the mark on August 15, 2003.

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As grounds of this Petition, it is alleged that:

1. Petitioner, since at least as early as July 3, 2000, has been, and is now, using the mark MONTEREY in connection with the sale of vinyl patio door systems. Said use has been valid and continuous since said date of first use and has not been abandoned. Said mark of Petitioner is symbolic of extensive goodwill and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion. In view of the fact that the marks are identical, and the related nature of the goods of the respective parties, it is alleged that Respondent's registered mark so resembles Petitioner's mark previously used in the United States, and not abandoned, as to be likely to cause confusion or to cause mistake or to deceive.
2. Further, Respondent's registration was obtained fraudulently, in that in the formal application papers filed by Respondent and signed by Thomas A. Vidmar, President of Anlin Industries, Inc., under notice of 18 U.S.C. 1001, it was stated that Mr. Vidmar believed Respondent to be the owner of the trademark, and believed Respondent to be entitled to use the mark in commerce, and that no other person, firm, corporation or association had the right to use the MONTEREY mark in commerce. Said statement was false in that the true facts were that Respondent was aware of Petitioner's adoption and prior use of the MONTEREY mark in connection with vinyl patio door systems at the time Respondent's application was filed. Said statement was made by an authorized agent of Respondent with the knowledge and belief that said statement was false. Said false statement was made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Respondent. Petitioner was damaged by said false statements and the registration issued in reliance thereon in that

Petitioner, since at least as early as July 3, 2000, has continuously used the mark MONTEREY in connection with the sale of vinyl patio door systems, and Petitioner's continued and legal use of said mark will be impaired by the continued registration of said mark of Respondent.

WHEREFORE, Petitioner prays that Registration No. 2,795,295 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 24, 2004

By: Anne Marie Kaiser

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