

TTAB

UNITED STATES PATENT AND TRADEMARK  
OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: April 21, 2005

Kacha International, Inc.

241 North New York Ave P.O. Box 2815  
Winter Park, FL 327902815

**Cancellation No. 92044448**  
Reg. No. 2610719

TODD BRAVERMAN, ESQ.  
BRYAN CAVE LLP  
1290 AVENUE OF THE AMERICAS  
NEW YORK, NY 10104-0101

Hong Kong City Toys Factory  
Limited

V.

Kacha International, Inc.

**HAROLD ROSS: LEGAL ASSISTANT**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12,



05-02-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72

2003). Notices concerning the rules changes, as well as the Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

**Discovery and testimony periods are set as follows:**

|  |                          |
|--|--------------------------|
| Discovery period to open:  | <b>May 11, 2005</b>      |
| Discovery period to close:   | <b>November 07, 2005</b> |
| 30-day testimony period for party in position of plaintiff to close: | <b>February 05, 2006</b> |
| 30-day testimony period for party in position of defendant to close: | <b>April 06, 2006</b>    |
| 15-day rebuttal testimony period for plaintiff to close:             | <b>May 21, 2006</b>      |

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the

Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA30978**

Filing date: **04/20/2005**

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 requests to cancel indicated registration.

#### Petitioner Information

|                |   |                    |                        |
|----------------|---|--------------------|------------------------|
| <b>Name</b>    | Hong Kong City Toys Factory Limited                                   |                    |                        |
| <b>Entity</b>  | Corporation   | <b>Citizenship</b> | British Virgin Islands |
| <b>Address</b> | Room 701-5, Silvercord Tower 130 Canton Road<br>Kowloon,<br>HONG KONG |                    |                        |

|                             |  |
|-----------------------------|--|
| <b>Attorney information</b> | Todd Braverman, Esq.<br>Bryan Cave LLP<br>1290 Avenue of the Americas<br>New York, NY 10104<br>UNITED STATES<br>nysupto@bryancave.com Phone:212-541-2064 |
|-----------------------------|--|

#### Registration Subject to Cancellation

|   |   |                          |            |
|---|---|--------------------------|------------|
| <b>Registration No</b>                        | 2610719   | <b>Registration date</b> | 08/20/2002 |
| <b>Registrant</b>                             | Kacha International, Inc.<br>241 North New York Ave P.O. Box 2815<br>Winter Park, FL 327902815<br>UNITED STATES |                          |            |
| <b>Goods/Services Subject to Cancellation</b> | Class 028. First Use: 20001015, First Use In Commerce: 20020103<br>Goods/Services: toys, namely dolls           |                          |            |

|                    |   |
|--------------------|---|
| <b>Attachments</b> | TruetoLife-Petition to Cancel.pdf ( 6 pages ) |
|--------------------|---|

|                  |                      |
|------------------|----------------------|
| <b>Signature</b> | /tjbraverman/        |
| <b>Name</b>      | Todd Braverman, Esq. |
| <b>Date</b>      | 04/20/2005           |

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

In the Matter of: U.S. Registration No. 2,610,719  
Mark: TRUE TO LIFE  
Registration Date: August 20, 2002

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:   
Hong Kong City Toys Factory Limited, : Cancellation No.:  
:   
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Petitioner, :   
:   
v. :   
:   
Kacha International, Inc. :   
:   
Registrant. :   
:   
-----X

Commissioner for Trademarks  
Trademark Trial & Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**PETITION TO CANCEL**

Petitioner, Hong Kong City Toys Factory Limited, a British Virgin island corporation, having a principal place of business at Room 701-5, Silvercord Tower 1 30 Canton Road Kowloon, Hong Kong, believes that it has been damaged and will continue to be damaged by U.S. Registration No. 2,610,719, and hereby petitions to cancel the same.

As grounds of this Petition, it is alleged that:

1. Petitioner is the owner of the trademark TRUE TO LIFE for dolls, doll playsets, doll clothing and doll accessories.

2. Registrant, Kacha International, Inc., a Florida corporation, believed to have its principal place of business at 241 North New York Ave, P.O. Box 2815, Winter Park, FL 32790-2815, is the owner of record of the mark TRUE TO LIFE, U.S. Registration No. 2,610,719, for "toys, namely dolls," in International Class 28, filed on November 9, 2000 and registered on August 20, 2002.

3. Registrant's claimed first use of the mark TRUE TO LIFE anywhere is listed as October 15, 2000.

4. Registrant's claimed first use in commerce for the mark TRUE TO LIFE is listed as January 3, 2002.

5. Petitioner commenced business operations in 1979 and has become the largest manufacturer of basic dolls worldwide. Petitioner distributes dolls to almost every country in the world.

6. Sometime in May, 1998, Petitioner commenced use of the mark TRUE TO LIFE on dolls, doll clothing, doll playsets and doll accessories in interstate commerce.

7. Petitioner has adopted and continuously used the trademark TRUE TO LIFE, since at least as early as May 1998 to the present, on or in connection with the sale of dolls, doll clothing, doll playsets and doll accessories in International Class 28.

8. Petitioner filed a used-based trademark application with the United States Patent and Trademark Office ("USPTO") for the mark TRUE TO LIFE on March 4, 2005, for "dolls, doll clothing, doll playsets and doll accessories," in International Class 28. The application was assigned U.S. Application Serial No. 78/580,011.

9. Petitioner is also the owner of U.S. Supplemental Registration No. 2,551,263 for the mark RECIEN NACIDO COMO LOS DE VERDAD, for "dolls, doll clothing

and doll accessories" filed on December 3, 1999 and registered on March 19, 2002. The English translation of "RECIEN NACIDO COMO LOS DE VERDAD" is "true to life new born."

10. The mark RECIEN NACIDO COMO LOS DE VERDAD was first used anywhere sometime in March, 1999.

11. The mark RECIEN NACIDO COMO LOS DE VERDAD was first used in interstate commerce sometime in March, 1999.

12. Petitioner has provided its dolls under the mark TRUE TO LIFE throughout the United States since at least as early as May, 1998. Petitioner has expended considerable efforts and sums in advertising and promoting Petitioner's mark TRUE TO LIFE in connection with Petitioner's dolls and related goods. As a result of these sales, efforts and monetary expenditures, Petitioner's mark TRUE TO LIFE has developed an exceedingly valuable goodwill throughout the United States and Petitioner's mark enjoys substantial consumer recognition.

13. Petitioner's Mark is a distinctive trademark which, through its substantial consumer recognition and its extensive and substantially exclusive use by Petitioner in the United States, is exceptionally well known and famous both within Petitioner's particular market segment and among the consuming public throughout the United States.

14. Petitioner has expended considerable efforts and expense in promoting its trademark TRUE TO LIFE and the goods sold under such mark, with the result that the purchasing public has come to know, rely upon, and recognize the dolls and related goods sold by Petitioner by such mark. Petitioner has an exceedingly valuable goodwill established in its mark TRUE TO LIFE.



15. The trademark sought to be cancelled, TRUE TO LIFE, the subject of U.S. Registration No. 2,610,719, is identical to Petitioner's prior used trademark TRUE TO LIFE, the subject of pending U.S. Application Serial No. 78/580,011, and is for goods nearly identical to Petitioner's goods.

16. There is no issue as to priority of use. Petitioner's date of first use and first use in commerce are long prior to the first date of use of the mark TRUE TO LIFE by the Registrant, *i.e.*, October 15, 2000 and Registrant's filing date for the application which matured into U.S. Registration No. 2,610,719, *i.e.*, November 9, 2000.

17. If Registrant is permitted to retain the registration sought to be cancelled, and thereby, the *prima facie* exclusive right to use in commerce the mark TRUE TO LIFE on the related goods sold by Petitioner, confusion in the trade is likely to result from any concurrent use of Petitioner's mark and that of the Registrant all to the great detriment of Petitioner, who has expended considerable sums and efforts in promoting its mark.

18. Purchasers are likely to consider the goods of the Registrant sold under the mark TRUE TO LIFE as emanating from Petitioner, and purchase such goods as those of the Petitioner, resulting in loss of sales to Petitioner.

19. Concurrent use of the mark by the Registrant and Petitioner may result in irreparable damage to Petitioner's reputation and goodwill, if the goods sold by the Registrant are inferior, since purchasers are likely to attribute the source of Registrant's goods to the Petitioner.

20. If Registrant is permitted to continue to maintain its invalid registration, it may be deemed incontestable after five (5) years from the date of registration, and Registrant would thereby obtain an incontestable right to the use of its mark in commence.

21. Furthermore, Registrant is also using the mark TRUE TO LIFE so as to misrepresent the source of the goods on or in connection with which the mark TRUE TO LIFE is used.

22. If Registrant is permitted to retain the registration sought to be cancelled, a cloud will be placed on Petitioner's title in and to its TRUE TO LIFE mark, and on Petitioner's right to enjoy the free and exclusive use thereof in connection with the sale of its goods, all to the injury of Petitioner.

WHEREFORE, Petitioner prays that Registration No. 2,610,719 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

This Petition is filed electronically via the U.S. Patent & Trademark Office Electronic System for Trademark Trials and Appeals in accordance with 37 C.F.R. § 2.111-2.115. The official filing fee of \$300 was charged to the firm's deposit account, Deposit Account No. 02-4467.

Petitioner hereby appoints Erik W. Kahn and Todd Braverman, all attorneys and members of the bar of the State of New York, whose post office address is Bryan Cave LLP, 1290 Avenue of the Americas, New York, New York 10104, to act as attorney for Petitioner herein, with full power to prosecute said Petition, to transact all relevant business with the USPTO, Trademark Trial and Appeal Board and in the United States Courts and to receive all official communications in connection with this Petition.

Dated: April 20, 2005  
New York, New York

Respectfully submitted,

By: /tjbraverman/  
Todd Braverman, Esq.  
Bryan Cave LLP  
1290 Avenue of the Americas  
New York, New York 10104  
212-541-2000

Attorneys for Petitioner,  
Hong Kong City Toys Factory Limited

# Assignment Data Not Available

**For Registration Number: 2610719**

Search Results as of: 4/21/2005 10:42:57 A.M.

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If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 703-308-9723  
Web interface last modified: Oct. 5, 2002

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Commission

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Alexandria, VA. 22313-1451  
If Undeliverable Return in Ten Days

OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300

92044448  
KACHA INTERNATIONAL, INC.  
241 NORTH NEW YORK AVE P.O. BOX 2815  
WINNER PARK, FL 327902815

